

Last update: June 2024



HARLEY-DAVIDSON TERMS AND CONDITIONS OF PURCHASE

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HARLEY-DAVIDSON TERMS AND CONDITIONS OF PURCHASE

These Terms also sometimes refers to H-D and Supplier individually as “**Party**” and collectively as the “**Parties**.”

1. DEFINITIONS

In addition to the terms defined elsewhere in this Agreement, the following additional defined terms will have the meanings set forth below. The use of any singular or plural form of a word includes the other form, unless context expressly indicates otherwise.

- 1.1 “**Affiliate**” means any parent company of H-D or Supplier, as appropriate, and any subsidiary or affiliate in which any of them owns, controls or is under common control with. For purposes of this definition “control” shall mean owning at least 25% of the voting stock, partnership interest, or other ownership interest.
- 1.2 “**Agreement**” means, collectively, the Cover Letter, these Terms, and the Award Letter and the appendices, which are attached hereto and incorporated herein.
- 1.3 “**Award Letter**” means the Award Letter entered into by Supplier or an Affiliate of Supplier on one hand and H-D or an affiliate of H-D on the other hand, incorporating these Terms.
- 1.4 “**Best Efforts**” means the highest level of effort (including, but not limited to the use of personnel, equipment and other internal and external resources) that a Party would reasonably be expected to devote to its highest priority customer or supplier, as the case may be, in a similar situation. Depending on the circumstances, Best Efforts may require Supplier to do one or more of the following: (i) move some or all production of Products to another Supplier facility or third-party facility, (ii) cooperate with H-D to establish a substitute supplier to temporarily provide Products, and (iii) air freight Products to the destination(s) designated by H-D.
- 1.5 “**Competitor of H-D**” means (i) any manufacturer of two or three wheeled motor vehicles (motorcycles) and (ii) any manufacturer or distributor of motorcycle original equipment components, motorcycle replacement parts, motorcycle accessories or motorcycle related apparel that does not sell exclusively to H-D or (iii) any company that owns or controls, is owned or controlled by, or is under common ownership or control with a company described in items (i) or (ii) of this paragraph.
- 1.6 “**Confidentiality Agreement**” means that certain Supplier Confidentiality Agreement between the Parties named therein and attached hereto as **Appendix 1**. Note that a version of the Confidentiality Agreement may be signed by the Parties early in their engagement, and in that instance, the document in Appendix 1 is just for reference, and the actual confidentiality agreement signed by both Parties is hereby incorporated by reference.
- 1.7 “**Cover Letter**” means the Cover Letter entered into by Supplier or an Affiliate of Supplier on one hand and H-D or an affiliate of H-D on the other hand, incorporating these Terms.
- 1.8 “**Documentation**” means any physical or electronic documents or other information for Software, such as on installation, function, administration, operation, performance, or technical support topics for Software.
- 1.9 “**Effective Date**” means the Effective Date of the applicable Award Letter.
- 1.10 “**Forecast**” means a written or electronic projection of future Orders that shall not be considered a firm purchase request but is provided solely for planning purposes. Forecasts

provided by H-D are non-binding and are provided to Supplier for informational purposes only. In practice, Forecasts may also be referred to as a projection, plan visibility, purchase requisition, 830, or estimated annual usage (EAU). In addition, any shipment request received via non-standard electronic communication including but not limited to email, spreadsheet, or verbal methods should be used for forecasting purposes only unless H-D provides specific written or electronic instructions to the contrary.

- 1.11 **“H-D”** means (i) the entity that has signed as “H-D” in a Cover Letter between itself and Supplier or an Affiliate of Supplier, as applicable; and (ii) any Affiliate of the entity that has signed such Cover Letter as “H-D” that is ordering Products from Supplier or Affiliate of Supplier, as applicable, pursuant to an Order; *provided, however*, in the case of (ii), that “H-D” shall mean only such Affiliate ordering the Products being sold pursuant to the applicable Order.
- 1.12 **“H-D Mark”** means any Trademark of or licensed to H-D or any Affiliate of H-D.
- 1.13 **“Intellectual Property”** means any patents, copyrights, trade secrets, discoveries, inventions, patent applications, utility models, industrial designs, writings and other works of authorship, technical information, know-how, specifications, ideas, documentation, data, proprietary information, processes, other intellectual property, registered or unregistered, Software, Documentation, or Materials, including any derivatives or improvements thereof. Intellectual Property does not include Trademarks.
- 1.14 **“Materials”** means any two dimensional drawings, including with geometric dimensioning and tolerancing, three dimensional drawings, geometric dimension and tolerancing analyses, gauge and test fixture plans, bolted joint analyses, design analyses, including on finite element analysis, computer aid engineering, thermal analyses, fluid analyses, electrical analyses, or system analyses, tool designs, mold flows, advanced product quality planning documentation, design failure mode effect analysis, process flows, process failure mode effect analysis, control plans, electrical bills of material, electrical schematics, electrical layouts, electronics worst case analyses, information and communications technology coverage reports, end of line verification software and design documentation, supplier responsible functional safety documentation, component requirements test case analyses, regulatory certifications, detailed cost breakdowns, including piece price, capital, and expense, tools required to compile and flash software, bootloaders, full source code of software, software design documentation, system architecture documentation, control area network files, including CAN DBC, interface control documentation, software system state machines, or software requirements test case analyses.
- 1.15 **“Motorcycle”** means any two or three-wheeled vehicle for use on or off roadways.
- 1.16 **“Motorcycle Field”** means the design, assembly, manufacture, distribution, marketing or sale of Motorcycles, original equipment components for Motorcycles, replacement parts for Motorcycles, accessories for Motorcycles, or apparel for riders or enthusiasts of Motorcycles.
- 1.17 **“Order”** means a written or electronic firm purchase request (including each purchase amendment) issued by H-D to Supplier and accepted by Supplier and governed by these Terms. “Orders” may be placed as discrete purchases (“Discrete Orders”) or as part of an ongoing delivery schedule. Discrete Orders are stand-alone purchase requests and may be referred to as purchase orders or firm visibility. In practice, ongoing delivery schedules may be referred to as blanket purchase orders, releases, firm visibility, 862’s, scheduling agreements, or schedule lines.

- 1.18 “**Personal Information**” means all information received by Supplier in any tangible or intangible form that relates to or personally identifies or makes identifiable any H-D employee, customer, agent, end user, supplier, contact or representative. Examples of Personal Information may include, but are not limited to, individual names, addresses, phone numbers, email addresses, purchase history, employment information, financial information, medical information, credit card numbers, social security numbers, and product service history.
- 1.19 “**Products**” means all original equipment, parts, accessories, goods and services supplied to H-D by Supplier pursuant to an Order governed by these Terms.
- 1.20 “**Software**” means any (i) computer program, (ii) code in source code or object code, (iii) process, algorithm, rule, specification, interface, protocol, data collection, definition, module, function, statement, or instruction for use in hardware, (iv) system software, middleware software, application software, programming software, driver software, or embedded software, (v) application layer, application framework, library, runtime system, kernel, or operating system, (vi) application programming interface, firmware, or software development kit, (vii) graphical user interface, (viii) website, webpage, or webapp, (ix) network protocol, communication protocol, security protocol, management protocol, (x) hosted software or software as a service, or (xi) program, solution, or other resources for use through a server, internet of things, cloud computing, or the internet.
- 1.21 “**Specifications**” means (i) all written specifications, drawings, standards, descriptions, quality requires, performance requirements, statements of work, and fit, form and function requirements and requirements for a Product (including any special packaging requirements and any accompanying instruction sheets) mutually agreed upon in writing by H-D and Supplier setting forth an effective date for such specifications and (ii) if a specified requirement consists of a sample because written Product specifications, drawings and requirements do not exist for that requirement (such as some cosmetic requirements), the latest sample approved in writing by H-D and Supplier.
- 1.22 “**Substitute**” means a product that has substantially the same functionality as a Product and that is intended, or would reasonably be expected, to be sold primarily for use on H-D motorcycles.
- 1.23 “**Sub-Supplier**” means any third party that Supplier employs, contracts, or otherwise uses for Products or otherwise in connection with the Agreement.
- 1.24 “**Sub-Tier Supplier**” means a person or entity that sells goods and services to a Tier 1 Supplier for the purpose of enabling that Tier 1 Supplier to provide goods or services to H-D or that sells goods or services to another Sub-Tier Supplier for the purpose of enabling that Sub-Tier Supplier to provide goods and services to a Tier 1 Supplier or another Sub-Tier Supplier.
- 1.25 “**Supplier**” means (i) the entity that has signed as “Supplier” in a Cover Letter between itself and H-D or an Affiliate of H-D; and (ii) any Affiliate of the entity that has signed such Cover Letter as “Supplier” that is supplying Products to H-D pursuant to an Order.
- 1.26 “**Supplier Background IP**” means any Intellectual Property of Supplier that (i) Supplier solely developed, conceived, or otherwise acquired independent of and without any connection to the Agreement, a statement or scope of work, or another contract by Supplier and H-D or (ii) Supplier solely develops, conceives, or otherwise acquires independent of and without any connection to the Agreement, a statement or scope of work, or another contract by Supplier and H-D.
- 1.27 “**Trademark**” means any trademarks, trade names, service marks, slogans, design marks,

graphical marks, or logos, including all associated goodwill.

- 1.28 “**Tier 1 Supplier**” means a person or entity that sells goods or services directly to H-D.
- 1.29 “**Vulnerability**” means any virus, backdoor, trojan horse, time bomb, malware, spyware, or other vulnerability in or associated with Software.

2. **ORDER OF PRECEDENCE**

2.1 In the event of any inconsistency or conflict between or among the provisions of these Terms and the documents incorporated herein by reference, the inconsistency shall be resolved by giving precedence in the following order:

- i. The applicable Award Letter;
- ii. any Orders and their incorporated terms and conditions, including any written changes provided to Supplier by H-D;
- iii. these Terms; and
- iv. the Appendices to these Terms.

3. **ORDERS AND FORECASTS**

3.1 Unless otherwise agreed to by the Parties, H-D hereby appoints Supplier as a non-exclusive supplier of the Products, and Supplier hereby agrees to provide the Products, under the terms and conditions of this Agreement and each Order issued hereunder. All Orders and other written and electronic communication made under or in connection therewith shall be made in English.

3.2 H-D will purchase the quantities of the Products specified in the Orders issued by H-D from time to time and Supplier shall deliver those quantities as indicated in the Orders, subject to the terms and conditions of this Agreement and each Order issued hereunder.

3.3 Unless agreed otherwise, the price of products shall be FCA to the location specified in the Order in accordance with Incoterms 2010 as published by the International Chamber of Commerce.

3.4 Each Order shall include, at a minimum:

- i. H-D’s internal order reference;
- ii. an adequate description of the Products being ordered (for example, an H-D part number);
- iii. the price to be paid for the Products ordered;
- iv. the Product quantity and time of delivery (which may be general);
- v. the place or places of delivery;
- vi. any special packaging requirements; and
- vii. any special packing and shipping requirements.

3.5 An Order may include the minimum acceptable quality level in terms of Defects per million units (ppm).

An original equipment Order or amendment thereto will be deemed accepted by Supplier if H-D does not receive written notice of non-acceptance (i) within forty-eight (48) hours after Supplier’s receipt of the Order or an amendment thereto, as applicable, or (ii) within ten (10) days after Supplier’s receipt of a Forecast. An Order for Products for use by H-D’s customer service or service parts organizations (collectively, the “**Parts Organizations**”), or an amendment to such an Order, will be deemed accepted by Supplier if H-D does not receive written notice of non-acceptance within ten (10) days after Supplier’s receipt of the Order or amendment thereto, as applicable.

<p>Each Forecast will be considered an amendment to the previous Forecast. These Forecasts will list the total quantity of Products H-D is projecting to order, and Supplier is to deliver, subject to adjustment by H-D as illustrated below: <u>Period</u></p>	<p><u>Permissible H-D Quantity Adjustment (+/-)</u></p>
<p>1-30 days prior to scheduled delivery date, [or 1-45 days for Products shipped from an international location to the United States].</p>	<p>0%</p>
<p>31-60 days prior to scheduled delivery date [or 46-75 days for Products shipped from an international location to the United States].</p>	<p>10%</p>
<p>61-90 days prior to scheduled delivery date [or 76-105 days for Products shipped from an international location to the United States].</p>	<p>30%</p>
<p>Beyond 90 days prior to scheduled delivery date [or beyond 105 days for Products shipped from an international location to the United States].</p>	<p>100%</p>

3.6 Orders may be written, may be in the form of H-D’s delivery of containers with an electronic pull signal (if Supplier participates in H-D’s returnable container pull system) or may be in any other form agreed to in writing (including electronic) by H-D and Supplier.

3.7 In the event H-D negatively adjusts a Forecast, except for Forecasts that are permitted to be adjusted by 100% pursuant to Section 3.5, H-D will reimburse Supplier for (i) costs Supplier has incurred to obtain raw materials to account for such Forecast, and (ii) work-in-progress inventory of the applicable Product; provided, in each case, that such costs are reasonable and documented and that Supplier has made commercially reasonable efforts to recoup or salvage

any such raw materials or work-in-progress inventory. For the avoidance of doubt, any reimbursement by H-D pursuant to the preceding sentence shall be net of, and conditioned upon, such recoupment or salvaging efforts.

- 3.8 Supplier acknowledges and agrees that H-D is the only party that is permitted to adjust these quantities under these terms and the applicable Order, and that even beyond 90 days, Supplier is not entitled to terminate any or all Orders as a result of any Forecast adjustment by H-D. Supplier further acknowledges and agrees that, with the exception of the Forecast adjustments provided in this Section 3, any termination of any or all Orders must be in accordance with Section 7 hereof.
- 3.9 During the Term, Supplier shall maintain an inventory of units of the Products sufficient to fulfill the Forecasts provided consistent with past Orders; *provided, however*, the Parties may agree to specific inventory requirements.

4. DELIVERY, ACCEPTANCE AND PAYMENT

- 4.1 Supplier will deliver the Products to H-D at the time or times and to the place or places specified in the Order. Supplier will package and ship the Products as specified in the Order as or defined by the H-D packaging team. H-D will pay normal shipping charges and costs (including insurance, duties, transfer taxes and inspection fees) from Supplier's dock to the place of delivery, unless the Parties agree to other shipping terms. Notwithstanding anything to the contrary in these terms, title and risk of loss will transfer to H-D at the time Products are delivered to H-D.
- 4.2 Supplier acknowledges that any failure by it to timely deliver Products will result in a disruption of H-D's manufacturing operations and will result in substantial damages. For this reason, and because of the difficulty of accurately proving losses and the non-feasibility of obtaining an adequate remedy in the event of a breach, H-D and Supplier agree that, notwithstanding anything herein to the contrary, H-D, at its sole option, will be entitled to recover liquidated damages of \$100,000 per day if Supplier stops shipping any Products based on a pricing dispute or demand or request for price increases.
- 4.3 All Specifications will be considered to require that each Product must be new when delivered to H-D, unless the applicable Specifications expressly permit the delivery of used, reconditioned or remanufactured Product.
- 4.4 H-D may refuse to accept any Products that do not conform to all applicable Specifications or are otherwise defective (collectively, "nonconforming Products"), in which case those Products will not be considered to have been delivered by Supplier, and H-D shall not be required to pay for those Products. H-D and Supplier will establish procedures for the containment, accumulation, sorting and return of nonconforming Products. In addition to other remedies available to H-D for the nonconforming Products, Supplier will pay all costs associated with the nonconforming Products, including, without limitation, internal and external sorting and containment costs, management and processing costs, warehousing costs, round-trip shipping costs for nonconforming Products, expedited freight for replacement parts, internal travel costs, labor and overtime, part replacement costs, repair and replacement costs for other goods affected by the nonconforming Products, the costs of ancillary parts involved in correcting the nonconforming Products, special tooling costs and other corrective action costs related to the nonconforming Products. If Supplier does not promptly deliver replacement Products, H-D may deliver written notice to Supplier's Designated Recipients that H-D intends to accept the nonconforming Products, correct the nonconformity and charge Supplier for H-D's reasonable costs incurred in making the correction. H-D will have the right to correct nonconforming

Products and charge Supplier. H-D will maintain customary records concerning H-D's use of corrected nonconforming Products.

- 4.5 Payment for any Product will not constitute its acceptance by H-D. A Product will be considered accepted by H-D on the first of the following to occur: (i) the H-D product into which the Product is incorporated passes final inspection by H-D; (ii) the Product is resold by H-D; or (iii) the Product is not incorporated into an H-D Product or resold by H-D but is otherwise used by H-D for its intended purpose.
- 4.6 If the applicable Order or other agreements between H-D and Supplier do not specify payment terms for the Products, H-D will pay Supplier for Products received at H-D's dock (or at another delivery point designated by H-D) with payment made within ninety (90) days of receipt of the Products by H-D. H-D may take advantage of any discounts for early payment offered to H-D by Supplier. If H-D pays for products before accepting them and then rejects the Products, Supplier will, at H-D's option, either repay H-D or credit H-D for the amount of the payment for the rejected Products.
- 4.7 Supplier will package and ship the Products in compliance with the packaging and shipping guidelines described in Doing Business with Harley-Davidson (or any other applicable standards published by H-D) and in accordance with any additional or different packaging or shipping requirements specified in the Purchase Order.
- 4.8 Unless the Parties agree to other terms, all packing, crating and shipping charges and costs (including insurance, taxes, customs, duties, transfer taxes and inspection fees) from Supplier's dock to the place or places of delivery are included in the purchase price for Products. At H-D's request, Supplier will itemize all of these costs on its invoice. Unless the Parties agree to other terms, all Products will be delivered to H-D "FCA (place of delivery)" (as that term is defined in Incoterms 2010) at the place or places of delivery specified by H-D. Risk of loss will transfer to H-D according to the "FCA" delivery term.
- 4.9 Supplier will provide H-D with an electronic Advanced Shipping Notification (ASN) the same calendar day of the common or contract carrier's departure to the place of delivery. If this notification is not provided or contains erroneous information that does not allow electronic receipt at H-D, Supplier will not receive On-Time-Delivery (OTD) credit for the shipment (which may affect Supplier's "in good standing" status).
- 4.10 A packing list in one of the applicable formats described in Doing Business with Harley-Davidson (or any other applicable standards published by H-D) ("Packing List") will accompany each Product shipment. In the event that Supplier fails to include a Packing List, the count, weight or other measure selected by H-D will be final and conclusive.
- 4.11 Failure to comply with Doing Business with Harley-Davidson (or any other applicable standards published by H-D) and the applicable Order with respect to packaging and shipping requirements could be subject to or result in a chargeback to Supplier for H-D's internal cost to correct the failure plus all of H-D's related out-of-pocket costs, including the cost of packaging materials.

5. **FORCE MAJEURE EVENT**

- 5.1 Any delay or failure of either Party to perform its obligations under the Agreement shall be excused if it is caused by a "**Force Majeure Event**" defined as any of the following extraordinary events or occurrences beyond the control of the nonperforming Party and without the nonperforming Party's fault or negligence: acts of God, fires, power surges, floods, windstorms, explosions, riots, natural disasters, wars, and sabotage. However, Supplier's

failure to deliver Products as required under the applicable Order resulting from a strike at a Supplier facility following the expiration of a collective bargaining agreement covering that facility will not be considered a Supplier Force Majeure Event for the first thirty (30) days of the strike.

- 5.2 For Supplier, a Force Majeure Event is one of the events listed above that prevents Supplier from delivering Products as required by one or more Orders. For H-D, a Force Majeure Event is an event that prevents H-D from utilizing Products as ordered under one or more Orders. Neither the failure of a sub-supplier to deliver Products or components to Supplier or otherwise perform any obligation owed to Supplier nor an increase in raw material, freight or labor costs or other inflationary pressures constitute a Force Majeure Event. Both Parties agree to use their Best Efforts to overcome the effects of any Force Majeure Event and again be able to meet their contractual obligations under the Agreement.
- 5.3 Written notice of such delay, including the anticipated duration of the delay, must be given by the nonperforming Party to the other Party's Designated Recipients within ten (10) days of the Force Majeure Event. The nonperforming party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the Force Majeure Event.
- 5.4 During the period of any delay or failure to perform by Supplier, H-D, at its option, may purchase goods from other sources, reduce its schedules to Supplier by such quantities, and delay or cancel orders or release for Products that H-D is unable to utilize because of the Force Majeure Event, without liability to H-D. If H-D requests, Supplier shall, within five (5) days of such request, provide adequate assurance that the delay will not exceed such period of time as H-D deems appropriate. If the delay lasts more than the time period specified by H-D, or Supplier does not provide adequate assurance that the delay will cease within such time period, H-D may, among its other remedies, immediately cancel any or all Orders without liability.

6. LATE SHIPMENT

- 6.1 Time and quantities are of the essence under the Order. Supplier will promptly deliver written notice to H-D's Designated Recipients whenever Supplier experiences any business interruption or otherwise believes that it probably will be unable to ship Products in the time or in the quantities required by the applicable Orders or Forecasts and Supplier will explain the reasons for, and expected duration of, the delay. Whenever Supplier becomes aware of a shipment delay then (i) Supplier will promptly and continuously use its Best Efforts to ship all late Products as quickly as possible and (ii) H-D will promptly and continuously use its Best Efforts to assist Supplier to ship all late Products as quickly as possible.
- 6.2 If Supplier is expected to be unable to deliver Products when required by the applicable Order or Forecast, then Supplier hereby agrees that H-D may (i) obtain a reasonable supply (in relation to the expected delivery delay by Supplier and the willingness of other suppliers to provide a short-term supply of the products) of substitute products from another supplier and (ii) reduce its order of Products from Supplier by the quantity of substitute products obtained plus the quantity of any lost H-D production or lost orders due to Supplier's delay.
- 6.3 H-D and Supplier will pay for all out-of-pocket costs incurred to expedite the procuring, production or shipping of Products and for the costs of any substitute products in excess of the cost of the Products in proportion to their relative responsibility for causing the actual or expected shipment delay (each Party will pay one half of the costs if neither Party is at fault). H-D and Supplier will each pay their respective internal costs incurred to expedite the procuring, production, or shipping of Products and any substitute products.

- 6.4 Other than the costs described in the previous paragraph, if the following two conditions are met, Supplier will not be liable for any of H-D's incidental, special or consequential damages (such as lost profits) in connection with a Product shipment delay: (i) Supplier's delay in shipping Products when required by the applicable Order or Forecast is not the result of an intentional breach of the Agreement by Supplier and (ii) upon recognizing that it will or probably will be unable to ship Products as required, Supplier promptly informs H-D and promptly and continuously uses its Best Efforts to ship all late Products as quickly as possible.

7. ORDER TERMINATION

- 7.1 H-D will have the right to terminate any or all Orders if Supplier fails to deliver Products to H-D when required under any Order; and either (a) the failure was not caused by a Force Majeure Event and occurred through no fault of H-D or (b) Supplier does not, upon recognizing that it will or probably will be unable to deliver Products when required, promptly inform H-D and promptly and continuously use its Best Efforts to deliver all late Products as quickly as possible. After Supplier notifies H-D that Supplier will probably be unable to deliver original equipment Products when required, H-D will make commercially reasonable efforts, which may include (if possible) adjusting its motorcycle build schedules and partially assembling motorcycles, to minimize the damages to H-D resulting from Supplier's failure to deliver when required.
- 7.2 Within ten (10) days of receiving H-D's notice of termination (see below) for failure to deliver Products as described above, Supplier must cure the failure to deliver by reimbursing H-D for all losses, damages and expenses (including incidental, consequential and special damages) resulting from Supplier's failure to deliver. Upon receipt of the reimbursement from Supplier, H-D will no longer have the right to terminate the Order(s) for the applicable failure to deliver and the notice will be considered withdrawn. At Supplier's request, H-D will promptly provide Supplier with an itemized list of all losses, damages and expenses resulting from Supplier's failure to deliver Products as required.
- 7.3 In addition to the specific circumstances described above, H-D and Supplier will have the right to immediately terminate any or all Orders:
- i. if the other Party (a) becomes insolvent, (b) becomes the subject of proceedings under any law relating to bankruptcy, receivership or the relief of debtors and, in the case of involuntary proceedings, the petition is not dismissed, stayed, bonded or discharged within sixty (60) days of the commencement of the proceedings or (c) admits in writing its inability to pay its debts as they become due; or
 - ii. if the other Party otherwise breaches the Agreement and fails to cure the breach, if curable, within ninety (90) days after the non-breaching Party delivers written notice of the breach to the breaching Party's Designated Recipients.
- 7.4 In addition to the circumstances described above, H-D will have the right to immediately terminate any or all Orders if there is a change of control of Supplier and any Competitor of H-D acquires, directly or indirectly, majority voting control or majority ownership of Supplier. Supplier shall give H-D prior written notice of any such change. For purposes of this clause, "change of control" means change in the ownership of more than 50% of the charter capital of the Supplier in one or more related transactions; or the change in ownership of any percentage of the charter capital of the Supplier that results in majority voting control of Supplier.
- 7.5 In addition to the above, H-D will have the right to immediately terminate any or all Orders in the event Supplier threatens or takes action to stop shipment under an Order. Such threats or actions shall be considered a material and anticipatory breach by Supplier under the Agreement

for which H-D may exercise any available remedies available under these Terms or applicable law.

- 7.6 If a Party decides to terminate any or all Orders under this Article 7, the terminating Party will deliver written notice of termination to the other Party's Designated Recipients. The termination may be effective immediately or at a specifically identified time in the future. An Order may be terminated in whole or in part. The effective time of termination may be the same or different for each Order terminated. A Party's right to terminate any or all Orders due to the occurrence of an event will be deemed waived if the Party does not deliver written notice of termination to the other Party's Designated Recipients within ninety (90) days after the Party first becomes aware of the occurrence of that event.
- 7.7 The Agreement will survive the termination or expiration of all Orders. Any notice from one Party to the other purporting to terminate the Agreement will be deemed a notice terminating all Orders under the Agreement. The Agreement (as opposed to one or more Orders) will only terminate (i) by a written termination agreement signed by both H-D and Supplier or (ii) five (5) years after the last Product is delivered under the last Order between H-D and Supplier. Unless the Parties otherwise agree in writing, the obligations (if any) of the Parties under the following portions of these Terms will survive termination of the Agreement: Article 9 (Supplier Product Warranty); Article 10 (Product Recall); Article 11 (Product Liability); Article 15 (Intellectual Property); Article 18 (Indemnification), Article 20 (Confidentiality); Article 21 (Dispute Resolution and Arbitration); Article 23 (Notices); and Article 30 (Miscellaneous Provisions).

8. **QUALITY, COST, TIMING AND TECHNOLOGY MANAGEMENT**

- 8.1 Supplier understands that for H-D to stay competitive, H-D must continuously improve its product quality, cost, timing (delivery) and technology competitiveness. Cooperation from Supplier is critical to the success of these efforts.
- 8.2 Supplier agrees to make all reasonable efforts to continuously improve the quality of each Product and will meet or exceed the minimum acceptable quality level defined and communicated by H-D in writing. Supplier will deliver to H-D quality verification in the form, and at the times, required by H-D. If either Party becomes aware of a potential Defect in a Product, that Party will promptly deliver written notice of the potential Defect to the other Party's Designated Recipients and each Party will provide all information and analysis related to the potential Defect reasonably requested by the other Party. Whenever a Defect is confirmed, Supplier will cooperate with H-D to promptly implement appropriate corrective and preventative actions. When requested by H-D, Supplier agrees to provide H-D with copies of all design and process failure mode and effect analyses (FMEAs) prepared by Supplier with respect to each Product and to comply with all requirements of the industry-standard Production Part Approval Processes ("PPAP") relevant to the Products.
- 8.3 Supplier will take advantage of cost saving technologies and other cost reduction opportunities to assist H-D to maintain a competitive cost position. H-D will provide Supplier with its current cost expectations for its suppliers generally. Supplier will provide H-D with supporting cost information (in the format reasonably requested by H-D) to support initial pricing of new Products or price changes for existing or revised Products. Notwithstanding the foregoing, Supplier acknowledges and agrees that any fixed price set forth on any Order may not be revised without the express written consent of H-D. Upon request, Supplier will provide H-D with a pricing breakdown by Product (where the Product price is included in a system price but is not separately priced) or by Product component (where the Product is composed of multiple components). Annual price reductions are expected from each Supplier for products that they carry over from one model year to the next according to Supplier's cost improvement plan.

Additionally, Supplier is expected to reduce the price of redesigned products when compared to the prior design.

- 8.4 Supplier recognizes that H-D is continuing to move toward more precisely timed Product deliveries than are currently required. Supplier agrees to work with H-D to continuously improve the accuracy of Product delivery schedules. H-D will provide Supplier with its current delivery expectations for its suppliers generally.
- 8.5 It is Supplier's responsibility to continuously research, develop and apply new or improved technologies for products it supplies to H-D; *provided, however*, for the avoidance of doubt, the costs incurred by Supplier for any process and Product improvement developed by Supplier shall not be passed along to H-D unless otherwise agreed by H-D in writing.

9. SUPPLIER PRODUCT WARRANTY

- 9.1 H-D generally provides its retail customers with a two-year unlimited mileage warranty on its motorcycles and a one-year warranty on motorcycle parts and accessories (two years for accessories purchased with a new motorcycle and installed by an authorized Harley-Davidson dealer). Supplier's Product warranty period generally will extend to a period no less than H-D's retail warranty period for the product provided by H-D that is composed of or incorporates the Product. If H-D offers longer retail warranty periods than the warranties provided by the Supplier for Products incorporated in or composing such H-D products (in some or all countries or for some or all H-D products), Supplier agrees that its warranties on such Products will be the same duration as such extended retail warranty period(s) on the H-D products. Notwithstanding the foregoing, for Products sold as "parts and accessories," the warranty shall commence on the date the corresponding H-D retail new parts and accessories warranty period commences and will continue for a period of one (1) year. H-D and Supplier may agree in writing to different warranty terms for specific Products, categories of Products or geographic locations.
- 9.2 A Product will be considered to have a "**Defect**" if the Product does not conform to all applicable Specifications, is otherwise deficient in material or workmanship or, at H-D's sole and reasonable determination, is unmerchantable, dangerous or unfit or unsafe for the particular purpose for which the Product was intended (and Supplier acknowledges that it knows of H-D's intended use of the Product and that such Products have been selected, designed, manufactured, or assembled by Supplier based upon H-D's stated use and will be fit and sufficient for the particular purposes intended by H-D).
- 9.3 A Product or Product component will be considered to be "**Jointly Designed**" if H-D states in an Order, written agreement or other writing that the Product or Product component was jointly designed by H-D and Supplier. For the avoidance of doubt, the following activities alone taken by a Party do not result in a Product or Product component being Jointly Designed: (a) reviewing and commenting on designs or (b) providing test results, evaluations and informal suggestions.
- 9.4 Supplier warrants to H-D (and any customer of H-D that purchases the Products or equipment from H-D incorporating the Products) that each of the Products will:
- i. Conform to the Specifications, H-D's minimum acceptable quality level, and performance standards specified by H-D;
 - ii. Be free from Defects;

- iii. Comply with all current safety standards (including labeling requirements, if Supplier is required to provide labels), and contain adequate warnings (if necessary to use the Products safely or otherwise required by H-D);
 - iv. Comply with all applicable federal, state, and local statutes, laws, ordinances, and regulations (including, without limitation, environmental, occupational and safety standards and rules).
 - v. To the extent the Products are, or contain, hardware, Software, and/or firmware products, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing all times and dates) and are free of viruses and other sources of network corruption. H-D and Supplier may agree in writing to different warranty terms for specific Products, categories of Products or geographic locations.
- 9.5 The Product Warranty (i) is in addition to all other warranties, express, implied, statutory and common law, (ii) extends to the Product's future performance, (iii) survives Supplier's delivery of the Goods, H-D's receipt, inspection, acceptance, use of the Product and payment for the Product, and the termination or expiration of the Agreement, (iv) inures to the benefit of H-D and its successor and assign and the users of H-D's Products, and (v) may not be limited or disclaimed by Supplier. H-D's approval of Supplier's Specifications, designs, or similar requirements will not be construed to relieve Supplier of any warranties. Supplier shall transfer and assign to H-D all of its rights (but not any obligations) under all warranties from equipment or material manufacturers or suppliers, permitted subcontractors, or other third parties. Any applicable statute of limitations on H-D's or its user's claims for breach of warranty will commence no earlier than the date on which H-D or the user discovers the breach.
- 9.6 If, during the period a Product is covered by Supplier's warranty, H-D reasonably believes it is obligated to repair or replace a motorcycle component or a motorcycle part or accessory under the terms of the applicable H-D retail warranty due to a Defect in that Product, (i) Supplier will, at its sole cost and expense, promptly correct the Defect through repair (if practical) or replacement of the defective Product at no charge to H-D, (ii) Supplier will pay all of Supplier's internal and out-of-pocket costs, and (iii) Supplier will promptly reimburse H-D for any internal and out-of-pocket costs incurred by H-D (directly or through H-D's warranty reimbursements to its dealers and distributors) to correct the Defect, including but not limited to: diagnosis, removal, round-trip shipping, installation, testing and, if applicable, retail profit margin. This remedy is not exclusive and is in addition to any and all other remedies available to H-D by law or these Terms.
- 9.7 At its option, H-D may debit the Supplier for up to 50% of the costs relating to repairing or replacing a motorcycle component or a motorcycle part or accessory under the terms of the applicable H-D retail warranty due to a Defect in that Product (the "**Warranty Costs**"), if H-D has made a good faith determination that the Supplier is likely to be liable for some portion of the Warranty Costs, taking into account all of the relevant data available at the time, including the assessment of H-D regarding Supplier's relative fault. For the avoidance of doubt, this remedy is non-exclusive in addition to all other remedies provided to H-D under the Agreement.
- For purposes of this Section 9.7 only, the term Warranty Costs will be limited to the cost of parts and labor actually incurred by H-D. These costs will be calculated in accordance with the Debits pursuant to this Section 9.7 will be made no more often than once a month.
- 9.8 If Supplier is obligated to reimburse H-D for any amount pursuant to this Article 9, Supplier grants the right of offset of such reimbursement amounts from payments otherwise due to Supplier from H-D.

10. **PRODUCT RECALL**

- 10.1 Because H-D manufactures and sells motorcycles, motorcycle parts and motorcycle accessories, H-D is subject to safety and compliance laws and regulations of domestic and foreign governments and governmental agencies (collectively, the “**Safety and Compliance Regulations**”). If H-D conducts a voluntary or mandatory recall of one or more Products under the Safety and Compliance Regulations because of a Defect (a “**Safety Recall**” or a “**Compliance Recall**”), Supplier be responsible for all costs and expenses of an action to remedy the Defect. H-D will decide, in its sole discretion, when to conduct a Safety Recall or Compliance Recall and the scope of any such Recall. If a Safety Recall or Compliance Recall is conducted, Supplier will be responsible for all out-of-pocket Recall campaign related costs and expenses.
- 10.2 At its option, H-D may debit the Supplier for up to 100% of the costs relating to conducting a voluntary or mandatory recall of one or more Products under the Safety and Compliance Regulations because of a Defect (the “**Recall Costs**”), if H-D has made a good faith determination that the Supplier is likely to be liable for some portion of the Recall Costs, taking into account all of the relevant data available at the time, including the assessment of H-D regarding Supplier’s relative fault. For the avoidance of doubt, this remedy is non-exclusive in addition to all other remedies provided to H-D under the Agreement.

11. **PRODUCT LIABILITY**

- 11.1 From time to time H-D’s customers or others (the “**Claimants**”) may sue or threaten to sue H-D, Supplier or one or more of H-D’s other suppliers (individually, a “**Products Liability Action**”) on the grounds that one or more Products (alone or with other causes) allegedly caused personal injury, death or property damage (collectively, “**Injuries**”).
- 11.2 H-D and Supplier recognize that a Claimant may sue one Party alleging that Injuries that were in fact caused, in whole or in part, by acts or omissions of the other Party. H-D and Supplier fully appreciate that third-party complaints and cross-claims brought by one Party against the other Party in a Products Liability Action are often undesirable and that both H-D and Supplier should attempt to avoid making claims against each other in Product Liability Actions. Neither H-D nor Supplier will file cross-claims or third-party complaints against the other Party in litigation involving a Products Liability Action without delivering written notice to the other Party’s Designated Recipients and exploring alternatives to the filing.
- 11.3 H-D and Supplier will make good faith efforts to cooperate with each other in defending against Claimants’ allegations in Products Liability Actions related to Products. If either H-D or Supplier has any concerns about whether the other Party is handling the defense of a Product Liability Action in accordance with the requirements of this Article 11, the Parties will promptly meet and make every reasonable effort to resolve the concerns in a fashion reasonably satisfactory to H-D and Supplier. However, nothing in this Article 11 will prevent the Parties from complying with all discovery requests and other legal obligations. Any information that a Party wants to remain subject to the attorney-client privilege or work product doctrine will be exchanged with the other Party only under a written joint defense agreement.
- 11.4 The terms of this Article 11 shall in no way limit or reduce Supplier’s duties of defense and indemnity under Article 18 or Supplier’s duty to procure insurance under Article 19.

12. **TOOLING AND EQUIPMENT**

- 12.1 All tooling and equipment required to manufacture the Products will be furnished by Supplier at no cost to H-D, unless other tooling and equipment arrangements are made by H-D and

Supplier. Other tooling and equipment arrangements include (i) tooling and equipment provided by H-D or charged to H-D under an Order, whether purchased from Supplier or another source (collectively, "**H-D Tooling**") and (ii) tooling and equipment leased by H-D from Supplier under an Order or written agreement (collectively, "**Leased Tooling**") for a specified period of time or for a specified number of pieces (the "**Lease Period**").

- 12.2 H-D will own any H-D Tooling and may transfer any H-D Tooling to any Affiliate of H-D. Supplier will retain and, upon request, provide H-D with a copy of the written warranty, if any, preventative maintenance records, the tooling record (list/description of the tooling) and the tooling line-up (external die dimensions) applicable to H-D Tooling charged to H-D under an Order. Supplier will cause these H-D Tooling warranties to be available to H-D.
- 12.3 H-D will own all drawings of H-D Tooling in all media. Supplier agrees to provide H-D, upon H-D's request, with any and all originals and copies of any and all drawings of H-D Tooling.
- 12.4 Each item of H-D Tooling and Leased Tooling will be kept by Supplier at Supplier's facility agreed upon in writing by H-D and Supplier. No item of H-D Tooling or Leased Tooling may be moved from the agreed upon facility of Supplier without H-D's prior written consent.
- 12.5 Supplier will not use any H-D Tooling to manufacture for, or provide any products to, any other customer of Supplier without H-D's prior written consent. Supplier will store, maintain and service H-D Tooling in Supplier's possession and Leased Tooling in the same manner as its own tooling and equipment. At any time and from time to time during normal business hours, Supplier will permit H-D to enter Supplier's facilities to inspect the H-D Tooling and Leased Tooling. Supplier will maintain replacement cost property and casualty insurance covering all H-D Tooling in Supplier's possession and, upon request, will name H-D as an additional insured and provide H-D with a certificate of insurance. For purposes of this Article 12, H-D Tooling in the possession of a supplier to Supplier (a sub-supplier) will be considered to be in the possession of Supplier.
- 12.6 For any H-D Tooling in the possession of Supplier, Supplier will label the H-D Tooling with H-D's name and take other actions as H-D reasonably requests to protect H-D's ownership rights. Supplier authorizes H-D to file financing statements and other documents to protect H-D's ownership rights in the H-D Tooling. At the request of H-D, Supplier will promptly return to H-D, at H-D's expense, all H-D Tooling in Supplier's possession (and no longer needed by Supplier to complete outstanding Orders) in the same condition as when Supplier acquired it, reasonable wear and tear excepted. Supplier will not assert against any of H-D Tooling any statutory possessory liens, all or which Supplier waives. Supplier will not offset any amounts due from H-D against the H-D Tooling.
- 12.7 If Leased Tooling becomes unusable prior to the end of the Lease Period, Supplier will promptly repair or replace the Leased Tooling so that H-D has access to fully functional Leased Tooling for the full amount of time or number of pieces specified in the applicable Order or written agreement.
- 12.8 Supplier will indemnify H-D for any liabilities and expenses (including reasonable attorneys' fees) resulting from the use of H-D Tooling or Leased Tooling by Supplier or any of its suppliers or agents.
13. **CONFLICT OF INTEREST**
 - 13.1 Because of the highly confidential nature of H-D's current and future product plans and the competitive nature of the motorcycle industry, H-D is particularly concerned about conflicts of interest that may exist or develop in the future with its suppliers related to specially

manufactured parts and H-D design information. In order to reduce the potential for conflicts of interest between H-D and Supplier, to the extent permitted by applicable laws, Supplier agrees that during the time that Supplier is supplying a current Product to H-D, and for two years after Supplier makes its last delivery of that current Product to H-D, Supplier will not directly or indirectly sell that Product or any Substitute for that Product to any Competitor of H-D; *provided, however*, that Supplier may continue to supply “off the shelf” products, catalog parts or commodities (not specially designed or customized for H-D, but taken from existing stock or suppliers) to Competitors of H-D.

- 13.2 To the extent permitted by applicable laws, Supplier agrees that during the time that Supplier is supplying a non-current Product to H-D, Supplier will not directly or indirectly sell that non-current Product to any Competitor of H-D.
- 13.3 This Article 13 will not apply to products that (i) Supplier sold to a Competitor of H-D prior to the Effective Date of the Agreement or (ii) products that were not designed primarily for the Motorcycle Field (defined below).

14. CUSTOMER SERVICE AND SERVICE PARTS

- 14.1 Supplier understands that H-D’s Parts Organizations will require a regular supply of all Products supplied to H-D’s original equipment organizations. During the period that an original equipment Order for a Product is in effect, Supplier will accept Orders issued in the ordinary course of business for the Product for use by the Parts Organizations. Unless prohibited by applicable law, Supplier will provide the Product to H-D’s Parts Organizations at the same price (before any special packaging costs) as provided for in the then current original equipment Order for the Product and, if Supplier offers any volume discount programs, H-D’s purchases under all Orders for the Product during the applicable time period will be aggregated when calculating volume discounts.
- 14.2 The “**OE End Date**” for a Product is the date the last original equipment Order for that Product terminates. Supplier understands that following the OE End Date for a Product, H-D will continue to require quantities of that Product (“**non-current Product**”) for the Parts Organizations. Supplier agrees to accept Orders for and sell to the Parts Organizations non-current Product throughout the Service Part Period for each Product. Unless H-D specifies a shorter Service Part Period in writing, the “**Service Part Period**” for each Product will be the period beginning on the OE End Date for that Product and extending at least (i) fifteen (15) years thereafter for all Products that are powertrain (i.e., engine or transmission) components, or (ii) ten (10) years thereafter for all Products that are not powertrain components; prior to the end of each such 15- or 10-year period, H-D and Supplier will consult in good faith and agree whether the Service Part Period for any non-current Product should be extended beyond the standard required 15- or 10-year period, as applicable (such agreement not to be unreasonably withheld). Before production under the last original equipment Order for a Product terminates, H-D and Supplier will work together in good faith to develop a long-term plan for ensuring Supplier provides an adequate supply of that non-current Product throughout the applicable Service Part Period at the lowest overall cost to H-D.
- 14.3 The price of each non-current Product will, for the first three (3) years following its OE End Date, equal the price of that Product on the last original equipment Order for that Product, adjusted for specific part packaging requirements. Thereafter throughout the remainder of the applicable Service Part Period, the price of each non-current Product will be subject to change, not more than once in any calendar year, upon mutual agreement of H-D and Supplier (not to be unreasonably withheld), to reflect the actual change (if any) in Supplier’s direct costs associated with producing the non-current Product. Supplier must reasonably substantiate any such cost change(s) to H-D in writing and with supporting documents.

14.4 Supplier must give H-D at least ninety (90) days' prior written notice before ceasing to produce any non-current Product, or before destroying, scrapping, selling or otherwise disposing of any tooling or equipment (other than H-D Tooling or Leased Tooling) used to manufacture any non-current Product (it being understood for the avoidance of doubt, however, that Supplier shall not cease to produce any non-current Product, or destroy, scrap, sell or otherwise dispose of any tooling or equipment used to manufacture any non-current Product, if doing so would eliminate or inhibit Supplier's ability to comply with its obligations under Section 14.2). If in any case H-D exercises this right to purchase, Supplier will package the tooling and equipment being purchased with reasonable care and ship it to the location specified by H-D, at H-D's risk and expense, and H-D will pay Supplier the agreed-upon purchase price. For purposes of clarity: (i) Supplier shall not destroy, scrap, sell or otherwise dispose of any H-D Tooling or Leased Tooling without H-D's express, prior written instructions to do so; and (ii) Supplier shall not cease to produce any non-current Product, or destroy, scrap, sell or otherwise dispose of any tooling or equipment used to manufacture any non-current Product, if doing so would inhibit Supplier from complying with its obligation to maintain the availability of non-current Products for sale to H-D throughout the applicable Service Part Period.

15. INTELLECTUAL PROPERTY

15.1 No Transfer of H-D Ownership. These Terms do not transfer, assign, or otherwise convey to Supplier, any Affiliate of Supplier or otherwise, ownership interest in any Intellectual Property of H-D or any affiliate of H-D.

15.2 H-D Sole Development. H-D shall own all right, title, and interest in any and all Intellectual Property that (i) H-D solely developed, conceived, or otherwise acquired before the Effective Date or (ii) H-D solely develops, conceives, or otherwise acquires on or after the Effective Date.

15.3 H-D Owned Supplier Sole Development. H-D shall further own all right, title, and interest in any and all Intellectual Property that (i) H-D funded, in whole or in part, before the Effective Date, which was solely developed, conceived, or otherwise acquired by Supplier, or (ii) H-D funds, in whole or in part, on or after the Effective Date, which Supplier solely develops, conceives, or otherwise acquires. Additionally, H-D shall further own all right, title, and interest in any and all Intellectual Property that (a) Supplier solely and directly developed, conceived, or otherwise acquired for a project, program, or platform of H-D before the Effective Date or (b) Supplier solely and directly develops, conceives, or otherwise acquires for a project, program, or platform of H-D on or after the Effective Date.

15.4 Joint Development. H-D shall own all right, title, and interest in any and all Intellectual Property that (i) Supplier and H-D jointly developed, conceived, or otherwise acquired before the Effective Date or (ii) Supplier and H-D jointly develop, conceive, or otherwise acquire on or after the Effective Date.

15.5 Work Made for Hire. Under Sections 15.3 or 15.4, any copyright, writing, or other work of authorship, registered or unregistered, developed, conceived, or otherwise acquired by Supplier, regardless of timing, shall be deemed a work made for hire ordered or otherwise commissioned by H-D. To the extent that such copyright, writing, or other work of authorship does not qualify as a work made for hire, Supplier does hereby transfer, assign, and otherwise convey all right, title, and interest in the copyright, writing, or other work of authorship to H-D. Supplier hereby waives all moral rights and droits moral, for all time for all purposes, in such copyright, writing, or other work of authorship. Supplier shall not assert any moral rights or droits moral against H-D or affiliates of H-D.

15.6 Perfection and Memorialization. In connection with these Terms, upon H-D's request to

Supplier, Supplier shall promptly execute any additional writings and perform any additional actions required to perfect or memorialize H-D's ownership in Intellectual Property of H-D.

- 15.7 No Transfer of Supplier Background IP. These Terms do not transfer, assign, or otherwise convey any ownership interest in any Supplier Background IP.
- 15.8 Trademark Use. Neither H-D nor Supplier will use any Trademark of the other Party for any reason without first receiving the written consent and the terms of use from such other Party. Each Party may withhold its consent to the use of any or all of its Trademarks by the other Party for any or no reason.
- 15.9 Graphic Designs. Supplier agrees and ensures that any graphic designs in any medium developed for, or used on, in or with, any Product or other item provided or to be provided to H-D or any of its direct or indirect affiliates, that include or make use of any Trademark (including any negative or separated images of any Trademark) of H-D or any of its direct or indirect affiliates, and any other representations in any medium of any Trademarks of H-D or any of its direct or indirect affiliates, will be the sole and exclusive property of H-D, regardless of who develops the graphic design or other representations and regardless of whether the graphic design or other representations is actually incorporated into any such Products or other items. Supplier may not use, display or dispose of any tangible or intangible medium (including, without limitation, any Product) that embodies or otherwise contains any such graphic design or other representation except to, or for the benefit of, H-D and in accordance with H-D's written instructions. To the extent Supplier retains any moral rights under applicable law, Supplier hereby ratifies and consents to any action that may be taken with respect to such moral rights by or authorized by H-D and agree not to assert any moral rights with respect thereto.
- 15.10 IP Restriction. In connection with the Agreement, Supplier shall not use or provide any Intellectual Property of a third party without first obtaining any and all necessary rights and licenses. Supplier shall provide H-D with reports that identify all third-party Intellectual Property used or provided in connection with the Agreement. Unless Supplier and H-D otherwise agree in writing, in connection with any Intellectual Property of Supplier or a third party, H-D will not be required to pay any royalty or other amount.
- 15.11 License to H-D. For the Motorcycle Field, Supplier hereby grants to H-D and affiliates of H-D a perpetual, irrevocable, non-exclusive, royalty-free, fully paid-up, transferable, and sublicensable license to make, have made, use, reproduce, distribute, modify, display, access, import, and export any Intellectual Property of Supplier, such as Supplier Background IP, that (i) Supplier provides to H-D or any affiliate of H-D, (ii) Supplier includes in or with any Product, or (iii) is necessary for any Product, Motorcycle, or Intellectual Property of H-D.
- 15.12 Sub-Supplier Requirement. Supplier will enter into agreements with any and all Sub-Suppliers that are consistent with the terms of this Agreement. Supplier will enforce the terms of such written agreement as to each Sub-Supplier and take such action, legal or otherwise, to the extent necessary to cause each Sub-Supplier to comply with the terms and conditions of such written agreement. Any failure by any Sub-Supplier to comply with such written agreement, or any act or omission by any Sub-Supplier that, if committed by Supplier, would constitute a breach of this Agreement, will be deemed to be a breach of this Agreement by Supplier for which Supplier will be responsible.
- 15.13 Open Source. Supplier shall provide H-D with reports that identify all open-source Software in Software developed, conceived, acquired, licensed, or provided by Supplier, regardless of timing, in connection with the Agreement, including names, versions, and open-source licenses of the open-source Software. Supplier shall provide to H-D source code for applicable

Software when necessary to satisfy requirements of underlying open-source licenses.

- 15.14 Third-Party Software. In addition to Supplier's obligations in Section 15.13, Supplier shall provide H-D with reports that identify all third-party Software in Software developed, conceived, acquired, licensed, or provided by Supplier, regardless of timing, in connection with the Agreement, including names, versions, and license and cost information of the third-party Software.
- 15.15 Software Restrictions. In connection with the Agreement, unless Supplier receives prior written approval from H-D, Supplier shall not use or provide any Software that (i) requires or otherwise obligates H-D to offer any Software of H-D for free, (ii) makes any underlying source code of Software of H-D available to any third party, such as under an open-source license, or (iii) is licensed under any copyleft open-source license or other viral license. In connection with the Agreement, Supplier shall not use or provide Software with incompatible licenses, such as which may result from relicensing Software or combining Software.
- 15.16 Notice and Correction. Unless Supplier and H-D agree otherwise in writing, in the event that Supplier detects, suspects, or learns of any Vulnerability in Software developed, conceived, or acquired by Supplier, regardless of timing, in connection with the Agreement, Supplier shall (i) inform H-D of the Vulnerability within seventy-two (72) hours of Supplier detecting, suspecting, or learning of the Vulnerability and ii) provide H-D with an update or other correction to permanently remove, disable, or correct the Vulnerability in the applicable Software within seventy-two (72) hours after providing the notice of the Vulnerability.
- 15.17 Supplier's On-Going Duty to Monitor. During the Term, Supplier must actively monitor Software that Supplier licenses or otherwise provides to H-D for Vulnerabilities.
- 15.18 Supplier's Obligation to Provide Materials. In connection with the Agreement, upon H-D's request to Supplier, Supplier shall promptly provide to H-D all requested Materials, provided that Supplier possesses or has access to such requested Materials. If Supplier does not possess or have access to the requested Materials, Supplier shall promptly inform H-D of that fact.
- 15.19 Inclusion Requirements. Unless H-D and Supplier otherwise agree in writing, Supplier shall include the following in applicable Materials:
 - i. Drawings. Supplier shall provide drawings in a file format accessible to H-D. In or with drawings, Supplier shall include component part numbers and revision levels. Furthermore, in a drawing, Supplier shall include component mass, material, and center of gravity, as applicable. Supplier acknowledges that any change to a drawing after initial design release is subject to H-D's review and approval. As such, all changes to drawings must be clearly documented in revised drawings.
 - ii. Electrical and System. Supplier shall include part numbers, values, tolerances, component data sheets, and packaging information in electrical schematics or electrical layouts. In or with an electrical schematic or electrical layout, Supplier shall include an electrical bill of material with all component part numbers, locations, reference designators, soldering pads, and traces, as applicable. If an electrical schematic or electrical layout includes an integrated circuit, Supplier shall indicate pin 1 of the integrated circuit in the electrical schematic or electrical layout. If an electrical schematic or electrical layout includes a printed circuit board, the traces of each layer of the printed circuit board shall be shown on a separate sheet. A printed circuit board build release shall have a unique part number or revision number printed on the printed circuit board. Supplier acknowledges that any change to an electrical schematic or electrical layout after initial design release is subject to H-D's review

and approval. As such, all changes to electrical schematics or electrical layouts must be clearly documented in revised electrical schematics or electrical layouts.

- iii. Design, Process, and Control. Supplier shall develop and maintain design failure mode effect analysis, process flows, process failure mode effect analysis, control plans, design failure mode effects analysis, and process flow in accordance with standard practice of the Automotive Industry Action Group or as otherwise required in writing by H-D. Prior to tool kick-off, Supplier shall complete all required documentation, including addressing potential failure modes and identifying preventative controls and actions. Such documentation shall consider the full design, including mechanical, electrical, and software elements, as applicable. Upon H-D's request to Supplier, Supplier shall make a subject matter expert available to discuss such documentation.

16. DATA PRIVACY AND SECURITY

- 16.1 Because the services under the Agreement require Supplier to receive, store, transmit or manage data related to the business of H-D, or Personal Information of or relating to its employees, customers, suppliers or contractors (collectively, "**H-D Data**"), or to otherwise access H-D's systems, Supplier shall comply with the provisions of Appendix 2 and otherwise ensure appropriate protection and handling of H-D Data.

17. ELECTRONIC COMMUNICATION

- 17.1 H-D requires all of its suppliers to communicate certain information electronically.
- 17.2 When H-D and Supplier communicate electronically with each other, the Parties will use one or more agreed upon formats for electronic communication, which may be direct or through a third-party service provider.
- 17.3 When the Parties transmit information electronically in an agreed upon format under an agreed upon protocol, the electronic communication will be considered "written" or "in writing" for purposes of the Agreement. Each Party will pay its own hardware, software and transmission costs. All electronic transmissions will be treated as signed writings and original records (provided that they comply with the applicable local regulation), except that when these Terms require a Party's written consent or written agreement, the written consent or written agreement must include a manual signature (which may be on paper or imaged) on behalf of that Party.
- 17.4 Signatures to the Agreement or any documents referred to under the Agreement transmitted by electronic mail or any other electronic transmission shall take effect from the date as specified in the document or in the absence of such specification, the date of transmission. Each Party agrees to promptly deliver an execution original to the other Party provided that a failure to do so shall not affect the enforceability of such document.

18. INDEMNIFICATION

- 18.1 To the fullest extent provided by law, Supplier, on behalf of itself and its Affiliates, (each, an "**Indemnifying Party**") covenants and agrees at all times to, jointly and severally, defend, protect, hold harmless and indemnify H-D, its parents and affiliates, and its and their respective directors, officers, employees successors and assigns (each an "**Indemnified Party**") from and against any and all losses, damages (including, without limitation, consequential, incidental, indirect, punitive, or exemplary damages), liens, fines, penalties, deficiencies, judgments, interest, awards, liabilities, costs and expenses of whatever kind (including, without limitation, reasonable attorney's fees and the costs of enforcing any right to indemnification under these Terms and the cost of pursuing any insurance providers, including the payment of self-insured

retentions and deductibles) (collectively, “**Losses**”) and any causes of action, suits, demands, legal proceedings, or claims (including those for loss, damage (including property damage) and bodily injury (including death)), whether or not involving a third party claim (collectively, “**Claims**”), including those arising from H-D’s own actual or alleged negligence or strict liability or suffered by Supplier’s employees, agents, representatives, contractors or consultants (“**Supplier Person**”), arising out of or relating to: (i) any act, error, omission, violation of law, negligence, or willful misconduct of Supplier or Supplier Person; (ii) the Products; (iii) any breach by Supplier or Supplier Person of any term or condition of the Agreement, including the Order, whatever form those Losses take; (iv) any product liability claim relating to the Products (including, without limitation, those for or arising from strict liability, negligence, breach of express or implied warranty, defect in design, defect in manufacture or material, failure to warn, and defect in workmanship); or (v) any Intellectual Property of Supplier, a Product or any activity of a Supplier Person in connection with the Agreement that infringes, misappropriates or otherwise violates any Intellectual Property of a third party (each Indemnifying Party’s indemnification in Item (v) shall apply if the Claim for infringement, misappropriation, or other violation is wholly or partly attributable to Supplier; Supplier’s compliance with specifications, requirements, or directions of H-D or third parties shall not relieve an Indemnifying Party’s indemnification obligations pursuant to this Item (v)).

- 18.2 If directed by H-D, Supplier shall immediately take upon itself the defense of all Claims, with counsel expressly approved by H-D, provided, however, that H-D reserves the right to participate in and/or control any such Claim brought against an Indemnified Party. Supplier shall be directly responsible for the immediate payment of all Losses and shall promptly pay all settlements, judgments, attorneys’ fees and other expenses as they are incurred. Supplier shall give prompt written notice to Indemnified Party of any proposed settlement of a Claim and may not, without Indemnified Party’s prior written consent, settle or compromise any Claim or consent to the entry of any judgment.
- 18.3 Supplier’s indemnification obligations herein shall continue in full force and effect notwithstanding the termination or expiration of the Agreement or Order under the Agreement. H-D will provide notice of any Claim and all necessary information and assistance so that Supplier may defend or settle such Claim. The foregoing indemnification provisions will not reduce or affect other rights or obligations which would otherwise exist in favor of the Indemnified Parties. Any insurance requirements set forth in the Agreement will not limit the foregoing indemnification.

19. **INSURANCE**

- 19.1 Without limiting Supplier’s duty to defend, protect, hold harmless and indemnify under these Terms, Supplier shall obtain and maintain at its sole cost, at a minimum, the types and amounts of insurance coverage and shall satisfy all of the other requirements, set forth in **Exhibit A to the Cover Letter**. H-D does not have or maintain any insurance available to Supplier. Any maintenance of any insurance by Supplier does not act to limit Supplier’s liability in any way. All such insurance shall be written on an “occurrence” basis. “Claims made” basis is acceptable for professional liability policies. All insurance coverage shall be provided on a primary and non-contributory basis, shall include H-D as an additional insured where specified in Appendix 3, and all other insurance provided for the benefit of H-D shall be excess the insurance provided by the Supplier pursuant to this Article 19. The insurance shall waive all rights of subrogation against H-D, the Indemnified Parties and H-D’s Insurers. Supplier shall furnish to H-D a certificate of insurance reflecting (i) Supplier’s insurance coverage meeting the requirements of Appendix 3, identifying the amount of any self-insured retention or deductible, (ii) H-D’s status as an additional insured (where applicable), and (iii) a statement verifying that the insurer has an obligation to notify H-D if Supplier’s insurance is cancelled or not renewed, or a material

change has been made to the policy. Supplier shall also furnish, promptly following execution of the Agreement, copies of all additional insured endorsements extending additional insured status under Supplier's policies to H-D.

- 19.2 Supplier will maintain replacement cost property and casualty insurance covering all H-D Property in Supplier's possession and will name H-D as an additional insured or loss payee and provide H-D with a certificate of insurance.

20. **CONFIDENTIALITY**

- 20.1 Supplier and H-D will comply with the terms and conditions of the Confidentiality Agreement.

- 20.2 Supplier will not make or issue any press release, publication, advertisement, or other type of announcement arising out of or otherwise relating to the Agreement without H-D's prior written approval.

- 20.3 Supplier shall not use any of the H-D Marks or identifying descriptions in any publication, broadcast, advertisement, promotion or other public or private document, or any other type of announcement, without H-D's prior written consent.

21. **TRADE COMPLIANCE – U.S. EXPORT AND IMPORT REGULATIONS**

- 21.1 U.S. Export Regulations. Supplier shall comply with all Export Administration Regulations (EAR) (15 CFR Parts 730-774), specifically part 772.1 for the definition of technology and the International Traffic in Arms Regulations ("ITAR") (22 CFR Parts 120-130), specifically part 120.33 for the definition of technical data. Each party acknowledges that Confidential Information which it receives may include technical data developed in the United States subject to export restrictions, and therefore, will not export or re-export any Confidential Information without full compliance with all applicable export laws. Destination Control Statement: Each supplier acknowledges that for U.S. Export purposes, the following Destination Control Statement applies: "These items are controlled by the U.S. Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. government or as otherwise authorized by U.S. law and regulations."

- 21.2 U.S. Import Regulations. Supplier shall comply with all U.S. Customs and Border Protection laws and regulations (e.g., 19 C.F.R.) and all other applicable U.S. Government regulations pertaining to importations of Products and materials into the United States under this Order. For domestic purchase orders; supplier shall assume all U.S. import responsibilities, to include designation as U.S. Importer of Record, Customs clearance, duty, permits, licenses, taxes, and fees for Products entering into the United States under this Order. Unless otherwise agreed in writing, H-D will not assume any import liabilities for Products and materials procured through this Order. Supplier shall obtain the written consent of H-D prior to causing Products to be shipped directly (i.e., "drop shipped") from the premises of any non-U.S. supplier to Buyer's facility. Supplier is responsible to provide any information requested by US Customs and Border Protection.

- 21.3 Commercial Invoice Regulations. For all shipments destined to H-D locations, please follow the invoicing requirements below per 19CFR-142.6, which includes but not limited to: Complete Shipping address, Complete Consignee address, Adequate description of goods, Quantity, H-D part number, US Harmonized Tariff Schedule Classification, Country of origin of merchandise, Value of merchandise, Currency type, Incoterms. Certificates of Origin -

Suppliers will annually self-certify that products exported are wholly obtained, produced or manufactured entirely in their respective country and provide copies of certificates of origin for products purchased by H-D.

- i. Free Trade Agreement (FTA) Free Trade Agreements provide significant duty savings to H-D and its suppliers on products that qualify. Suppliers located in countries that have an established Free Trade Agreement with the U.S. shall complete an annual request from H-D and shall confirm Free Trade Agreement eligibility of products exported to the U.S. Free Trade Agreement certificates for the products purchased by H-D are required.
- ii. Anti-dumping/Countervailing Duty Suppliers should be aware of antidumping and countervailing duties that apply to their products. A product is considered to be “dumped” if it is exported to another country at a price below the normal price of a like product in the exporting country. Anti-dumping measures are unilateral remedies that the government of the importing country may apply after a thorough investigation has determined that the product is, in fact, being dumped, and that sales of the dumped product are causing material injury to a domestic industry that produces a like product. Countervailing duties are assessed by the importing country, usually in the form of increased duties to offset subsidies given to producers or exporters in the exporting country.

21.4 Toxic Substance Control Act. Supplier shall not include any chemical substance (including mixtures or articles containing a chemical substance or mixture) in any shipment to the United States without prior notice to and written consent of H-D. Supplier shall indemnify and hold harmless H-D from any loss, cost, liability, damage, or penalty to H-D by reason of Supplier’s nonperformance under this Section. Any products with chemical substance delivered shall, at the time of sale, transfer, or delivery, be on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Agency pursuant to the Toxic Substances Control Act (Title 15 USC § 2601 et seq.). Supplier further covenants and agrees that, upon request from H-D from time to time, Supplier will certify and submit to H-D information related to the composition of the Products to ensure compliance with various applicable laws, regulations, ordinances and other legal requirements throughout the world, including but not limited to full Product or Product component compositional data and certified reports of the results of tests demonstrating the presence (or absence) of specified chemicals or substances in Products or Product components, all as requested by H-D.

21.5 Importer Security Filing (ISF) Data for Ocean Shipments. As per 19 CFR 149.2(a), the ISF is a Customs and Border Protection (CBP) requirement for ocean cargo imports into the United States. Certain shipment data must be provided in advance of the cargo being loaded on a vessel. It only applies to vessel cargo arriving into the U.S.; it does not apply to air freight or break bulk cargo. Once a booking has been confirmed the ISF data must immediately be sent to H-D’s U.S customs broker to ensure filing requirements are met. Any delays by the Supplier’s booking, may result in liquidated damages claimed back to Supplier.

21.6 Customs Trade Partnership Against Terrorism (CTPAT). H-D participates in the U.S. Customs and Border Protection (CBP) in the Customs-Trade Partnership Against Terrorism (CTPAT) program. This program is designed to protect the global supply chain from the introduction of terrorist contraband (weapons, explosives, biological, nuclear or chemical agents, and agricultural threats, etc.) in shipments originating from off-shore of the United States to Supplier, drop shipments to its sub-tier suppliers, or drop shipments to its customers originating from off-shore of the United States. Supplier shipments through U.S. importers, from manufacturers in foreign countries, and brokers/freight forwarders/carriers must be with transportation companies that are CTPAT validated by CBP. In addition, Supplier agrees to

take such reasonable measures as may be required by H-D to ensure the physical integrity and security of all shipments under this Order against the unauthorized introduction of harmful or dangerous materials, pests and noxious weeds, drugs, contraband, weapons or weapons of mass destruction or introduction of unauthorized personnel in transportation conveyances or containers. Such measures may include, but are not limited to, physical security of manufacturing, packing and shipping areas, restrictions on access of unauthorized personnel to such areas; personnel screening to the maximum limits of law or regulations in Supplier's or manufacturer's country; and development of procedures to protect the security and integrity of all shipments. Contact H-D's Authorized Purchasing Representative for assistance in identifying transportation companies validated under the C-TPAT program. Information about CTPAT can be found at www.cbp.gov.

- 21.7 Ocean Container Security. Supplier agrees to ensure the physical integrity and security of all ocean/land containers to prevent the above listed contraband from entering the container and imported into the United States. All containers must be inspected in accordance with CTPAT container inspection checklist and cleaned prior to stuffing to ensure container is free of pests and noxious weeds. Containers will be secured with International Standard Organization ISO 17712 high security bolt seals and have written instructions that control access, distribution, controls in transit, and the destruction of all ISO 17712 bolt seals. Transportation providers must notify H-D the date, time and location, and any potential reason a bolt seal was tampered with or broken. H-D, or designee, may audit all pertinent records relating to a tampered or broken bolt seal. Supplier acknowledges that it has reviewed its supply chain security procedures and contractual terms with its transportation providers and by acceptance of this Order Supplier certifies that its security procedures and transportation provider's contractual terms adhere to this clause and are in accordance with trade security requirements of its respective country. Failure to comply with this paragraph, supplier may accrue transportation costs associated with pests, noxious weeds, or thefts. Supplier certifies that its container security procedures and transportation provider's contractual terms adhere to this clause and are in accordance with trade security requirements (Authorized Economic Operator or equivalent program) of its respective country.

22. **DISPUTE RESOLUTION AND ARBITRATION**

- 22.1 The Parties' shared objective is to resolve all disputes that may arise between them as amicably and efficiently as possible, and neither Party will unreasonably delay the resolution of a dispute.
- 22.2 If a dispute or controversy regarding the interpretation of the Agreement or any right or obligation under the Agreement or the business conducted pursuant to the Agreement arises between the Parties and cannot otherwise be resolved on an informal basis between the organizations, the Parties agree it shall be resolved solely by means of the procedures set forth in this Article 22. Such procedures constitute legally binding obligations that are an essential provision of the Agreement. If either Party fails to observe the procedures of this Article, the other Party may bring an action for specific performance of these procedures in any court of competent jurisdiction authorized by the Agreement. The English language version of these Terms will govern and prevail over any translations of the Terms into any other language(s).
- 22.3 Within seven (7) days after a written notice of a dispute being received from H-D or Supplier, H-D and Supplier personnel who are senior (when possible) to the people with responsibility for administering the Agreement and who have the authority to resolve the dispute will meet either on the telephone or face to face, at a mutually agreeable time and location and attempt in good faith to resolve the dispute (the "**Initial Executive Meeting**").
- 22.4 Mediation: If the Parties are unable to resolve a dispute arising out of or relating to the Agreement through the Initial Executive Meeting procedures either Party may then submit

such dispute for confidential mediation to a JAMS mediator or other mediator agreed upon by the Parties. The location of the mediation shall be in Milwaukee, Wisconsin, unless both Parties agree in writing to a different location. The cost of the mediator shall be borne equally by the Parties.

- 22.5 Legal Proceedings/Litigation. If the Parties have not resolved the dispute within forty-five (45) days after the appointment of a mediator, or within such other time as may be agreed to by the Parties in writing, either Party may initiate legal action subject to the provisions set forth in this Section below. In all cases, Supplier shall provide H-D at least thirty (30) days' advance written notice of its intent to initiate any legal action.
- 22.6 Forum Selection. Unless H-D exercises its right to arbitration set forth in the Section below, any dispute arising out of or relating to the Agreement not settled by the Parties through the negotiation or mediation procedures set forth above shall be subject to the exclusive venue and jurisdiction of the United States District Court for the Eastern District of Wisconsin (Milwaukee Division), or the Waukesha County Circuit Court. Supplier irrevocably waives any objection to jurisdiction or venue of any action instituted hereunder and shall not assert any defense based on lack of jurisdiction or venue or based upon the doctrine of forum non conveniens. Supplier further irrevocably waives personal service of process and consents to process being served in any suit, action or proceeding in connection with the Agreement by mailing a copy thereof via registered or certified mail to Supplier at the address for Supplier set forth in the Agreement. Should Supplier's address change following execution of the Agreement, notice of the new address for purposes of this provision shall be provided to H-D in writing within ten (10) days.
- 22.7 Right of Arbitration. Notwithstanding Sections above, H-D shall have the sole right to initiate binding arbitration in lieu of legal action. In the event H-D or Supplier has already initiated legal action, H-D may, at its sole option, elect to have the dispute resolved through binding arbitration instead, provided H-D submits notice of this election in writing to Supplier within sixty (60) days following the date service of process was initially served by one Party on the other in the legal proceeding.
- 22.8 Arbitration. In the event H-D elects to proceed with arbitration to resolve the dispute, the arbitration shall be administered by the arbitrator set forth on **Appendix 5**, or any other arbitration provider agreed in writing by the parties in accordance with the arbitrator provider's rules in effect at the time of the arbitration proceeding, except as they may be modified herein or by mutual agreement of the Parties. The arbitration shall be heard and decided by a single arbitrator and the location of the arbitration shall be Milwaukee, Wisconsin unless both Parties agree in writing to a different location. Supplier irrevocably submits to the jurisdiction of the arbitrator and waives any objection to the arbitration, including any defense that Supplier is not subject personally to the jurisdiction of such arbitrator, that such arbitration is brought in an inconvenient forum or that such venue is improper. Subject to Section 22.10 below, each Party shall be responsible for its own expenses in connection therewith. The arbitration award shall be final and binding, and judgment over the award may be entered by any court having jurisdiction thereof or having jurisdiction over the relevant Party and its assets.
- 22.9 The laws of the applicable jurisdiction as set forth in **Appendix 5** shall be the governing law and Arbitration proceedings shall take place before the applicable sole arbitrator set forth in **Appendix 5**, unless a different number of arbitrators or a different location is mutually agreed upon by the Parties.
- 22.10 The prevailing Party in any legal proceeding or arbitration proceeding pursuant to Sections 22.6 or 22.8 hereof is entitled to receive, and the non-prevailing Party shall pay, in addition to all other remedies to which the prevailing party may be entitled, the costs and expenses incurred

by the prevailing Party in conducting or defending the suit, action, or proceeding, including actual attorneys' fees and expenses and court costs, even if not recoverable by law.

- 22.11 Notwithstanding anything in this Article 22, H-D may seek injunctive relief in emergent circumstances in any court of competent jurisdiction without following the procedures set forth above.

23. **NOTICES**

- 23.1 H-D and Supplier will each use all commercially reasonable efforts to ensure that Orders, Forecasts and all written, verbal and electronic notices are delivered to appropriate personnel at the other Party. Neither Party will attempt to avoid receipt of notice from the other Party.

24. **BAILMENT**

- 24.1 H-D may from time to time deliver to Supplier, or otherwise cause or permit to come into Supplier's possession, components, parts, raw materials or other goods or property (collectively the "**H-D Property**") to be incorporated into Products, processed by Supplier, or otherwise used in connection with the production of Products.

- 24.2 Each item of H-D Property will be kept by Supplier, at no additional cost to H-D, before, during and after processing or other use, at a facility of Supplier to be agreed upon in writing by H-D and Supplier (in any case the "**Designated Facility**"). Supplier may not move the H-D Property from the Designated Facility without H-D's specific prior written consent. Supplier will protect and care for the H-D Property in the same manner as Supplier protects and cares for its own valuable property or in such other manner as reasonably specified by H-D.

- 24.3 Legal and beneficial title to the H-D Property will remain with H-D at all times. At no time will Supplier have any ownership rights or other "rights" (as that term is used in §9-203(b) of the Uniform Commercial Code) in the H-D Property. Neither these Terms nor this Article 24 nor the delivery of the H-D Property to Supplier will constitute a "consignment" or "security agreement," or create a "security interest," within the meaning of the Uniform Commercial Code. Supplier's responsibility with respect to the H-D Property will be that of a bailee. Supplier will indemnify and hold harmless H-D from any loss or damage to any H-D Property caused by or as result of any act or omission of Supplier or its agents.

- 24.4 Supplier authorizes H-D to file financing statements and other documents to protect H-D's ownership rights in the H-D Property. Supplier will sign documents, send notices, maintain a system under which the H-D Property is clearly identified as H-D's property and is kept separate and distinct from Supplier's own property and any other property in Supplier's possession, and take other actions as H-D reasonably requests to protect H-D's ownership rights in the H-D Property or to inform third parties of H-D's ownership rights in the H-D Property. Supplier will not modify or alter the H-D Property without H-D's written consent and will use the H-D Property only in the production of Products or in such other manner as may be requested in writing by H-D.

- 24.5 Supplier will not assert against any H-D Property any statutory or possessory liens, all or which Supplier waives. Supplier will not offset any amounts due from H-D against the H-D Property.

- 24.6 At any time and from time to time during normal business hours, Supplier will permit H-D to enter the Designated Facility to inspect and, subject to H-D's obligations under the Agreement, remove some or all of the H-D Property. At any time and from time to time upon H-D's request, and subject to H-D's obligations under the Agreement, Supplier will return the H-D Property to H-D or deliver the H-D Property to any other person or entity designated by H-D in writing, in any case in accordance with shipping instructions provided by H-D. Upon termination of the

Agreement, Supplier will immediately return the H-D Property to H-D or deliver the H-D Property to any person or entity designated by H-D in writing, in any case or accordance with the shipping instructions provided by H-D.

24.7 SUPPLIER MAY NOT, IN ANY EVENT, SELL THE H-D PROPERTY TO ANY PERSON OR ENTITY, AND SUPPLIER MAY NOT DELIVER POSSESSION OF THE H-D PROPERTY OTHER THAN TO H-D OR TO ANOTHER PERSON OR ENTITY SPECIFICALLY DESIGNATED BY H-D IN WRITING.

24.8 Supplier will furnish to H-D, at no additional cost to H-D, such reports and statements with respect to the H-D Property in Supplier's possession as H-D may reasonably request. Such reports and such statements will contain such details and be furnished at such times and for such periods of time as H-D may reasonably require.

25. **SUB-SUPPLIER**

25.1 Supplier will act as a Tier 1 Supplier when it sells Products directly to H-D pursuant to the Agreement.

25.2 Except as otherwise set forth in the Agreement, Supplier may obtain goods or services from a Sub-Tier Supplier for the purpose of enabling Supplier to provide goods or services to H-D, to a Tier 1 Supplier, or to another Sub-Tier Supplier, provided that (i) the Sub-Tier Supplier that supplies goods or services to Supplier is not a Competitor of H-D and (ii) Supplier remains liable for all of Supplier's obligations under the Agreement. In addition, Supplier may act as a Sub-Tier Supplier by selling goods or services to any Tier 1 Supplier for the purpose of enabling that Tier 1 Supplier to provide goods or services to H-D or by selling goods or services to another Sub-Tier Supplier for the purpose of enabling that Sub-Tier Supplier to provide goods and services to a Tier 1 Supplier or another Sub-Tier Supplier.

25.3 If Supplier desires to obtain goods or services from a Sub-Tier Supplier to enable Supplier to provide goods or services to H-D, to a Tier 1 Supplier, or to another Sub-Tier Supplier, then before obtaining or committing to obtain such goods or services, Supplier will identify to H-D in writing the Sub-Tier Supplier and the goods or services to be obtained. Supplier is responsible for the acts and omissions of the Sub-Tier Supplier. Supplier will indemnify and hold harmless H-D for all losses and damages (including reasonable attorneys' fees) arising from any dispute between Supplier and the Sub-Tier Supplier or arising from any acts or omissions of the Sub-Tier Supplier.

25.4 If Supplier desires to obtain goods or services from a Sub-Tier Supplier for the purpose of enabling Supplier to provide goods or services to H-D, to a Tier 1 Supplier or to another Sub-Tier Supplier, then Supplier will enter into a purchase order or other written agreement (a "**Purchase Agreement**") with the Sub-Tier Supplier. The Purchase Agreement must contain terms and conditions that are consistent with the Agreement, with Supplier having rights that match or exceed the rights of H-D under the Agreement and the Sub-Tier Supplier having obligations that match or exceed the obligations of Supplier under the Agreement. In addition, the Purchase Agreement must provide, or the Supplier must expressly provide H-D with the right to enforce all of Supplier's rights under the Purchase Agreement as though H-D were Supplier under the Purchase Agreement, and the Purchase Agreement must make clear that H-D will not have any obligations or liabilities of any kind whatsoever under the Purchase Agreement. Supplier will enforce the terms of the Purchase Agreement and take such action necessary to cause the Sub-Tier Supplier to comply with the Purchase Agreement.

25.5 If Supplier desires to provide goods or services to any Tier 1 Supplier for the purpose of enabling that Tier 1 Supplier to provide goods or services to H-D, or if Supplier desires to

provide goods or services to another Sub-Tier Supplier for the purpose of enabling that Sub-Tier Supplier to provide goods and services to a Tier 1 Supplier or another Sub-Tier Supplier, then Supplier will enter into a purchase order or other written agreement (a “**Sale Agreement**”) with that Tier 1 Supplier or that other Sub-Tier Supplier. The Sale Agreement must contain terms and conditions that are consistent with the terms and conditions of the Agreement, with the Tier 1 Supplier or other Sub-Tier Supplier having rights that match or exceed the rights of H-D under the Agreement, including in relation to pricing. Supplier shall also have obligations that match or exceed Supplier’s obligations under the Agreement. H-D will have the right, or the Supplier must expressly provide H-D with the right, to enforce all of the Tier 1 Supplier’s or other Sub-Tier Supplier’s rights under the Sale Agreement as though H-D were the Tier 1 Supplier or other Sub-Tier Supplier under the Sale Agreement. H-D will not have any obligations or liabilities of any kind whatsoever under the Sale Agreement. Supplier will comply with the Sale Agreement. In any case, regardless of the terms of the Sale Agreement between Supplier and a Tier 1 Supplier or other Sub-Tier Supplier, if Supplier provides goods or services to any Tier 1 Supplier for the purpose of enabling that Tier 1 Supplier to provide goods or services to H-D, or if Supplier provides goods or services to another Sub-Tier Supplier for the purpose of enabling that Sub-Tier Supplier to provide goods and services to a Tier 1 Supplier or another Sub-Tier Supplier, H-D will have the same rights as Supplier in connection with the provision of such goods and services as if such goods and services were “Products” under the Agreement.

25.6 As and when requested from time to time by H-D, Supplier will consult with, provide information to and otherwise cooperate with H-D so that H-D is able to determine compliance by Supplier with, and to enforce H-D’s rights under, this Article 25, any Purchase Agreement and any Sale Agreement.

25.7 If any parent, subsidiary or other affiliate of Supplier (“**Supplier Affiliate**”) desires to supply goods or services to H-D as a Tier 1 Supplier, and if the Supplier Affiliate is not a party to a master supply agreement (“**MSA**”) with H-D, Supplier and the Supplier Affiliate shall contact H-D in writing, and H-D will determine whether it wishes to enter into an MSA with the Supplier Affiliate. No Supplier Affiliate shall supply goods or services to H-D as a Tier 1 Supplier unless and until it has entered into an MSA with H-D. Notwithstanding the foregoing, if any Supplier Affiliate supplies any good or services to H-D but has not entered into an MSA with H-D, Supplier and H-D specifically agree that (i) the Supplier Affiliate shall be deemed to be bound by all obligations of the “Supplier” under the Agreement as if it had signed the Agreement and as if the goods or services supplied by it to H-D were “Products” for purposes of the Agreement; and (ii) the Supplier shall be jointly and severally liable for all such obligations of the Supplier Affiliate as if the goods and services supplied to H-D by the Supplier Affiliate were Products supplied to H-D by Supplier pursuant to the Agreement; and (iii) Supplier will indemnify and hold harmless H-D for all losses and damages (including reasonable attorneys’ fees) arising from any acts or omissions of the Supplier Affiliate or from any goods or services supplied by the Supplier Affiliate to H-D. If any Supplier Affiliate desires to act as a Sub-Tier Supplier, or if a Supplier Affiliate has entered into an MSA with H-D and Supplier desires to act as a Sub-Tier Supplier for that Supplier Affiliate, both the Supplier and the Supplier Affiliate shall be bound by and comply with all requirements of this Article 25.

26. **GOVERNING LAW**

26.1 **The Agreement, including, these Terms, all exhibits, schedules, attachments, and appendices attached hereto and thereto, all Orders, and all purchases of Products by H-D under this Agreement shall be governed exclusively by and construed in accordance with the Laws of the applicable jurisdiction set forth on Appendix 5, without giving effect to choice of law principles and without giving effect to the United Nations Convention regarding Contracts for the International Sale of Goods (which the Parties expressly**

exclude). Supplier will notify H-D of the existence and content of any provision of law, rule or regulation in the jurisdiction(s) in which Supplier will perform under the Agreement, or any other potentially applicable law, rule or regulation, that conflicts with any provision of the Agreement at any time.

27. ADDITIONAL REPRESENTATIONS, WARRANTIES, AND COVENANTS OF SUPPLIER

27.1 In addition to the other representations, warranties, and covenants made by Supplier under the Agreement, Supplier hereby represents, warrants, and covenants as follows:

- i. Supplier has the authority to enter into the Agreement, and the performance of the terms of the Agreement by Supplier will not breach its Articles of Association, Articles of Organization, Articles of Incorporation, bylaws (or any other documents of similar nature under the local laws), or any other agreement by which Supplier is bound. The Agreement constitutes the valid and binding obligations of Supplier and is and shall continue to be enforceable against Supplier in accordance with its terms.
- ii. Supplier has obtained, and it shall continue to maintain or obtain (as applicable), at its own cost and expenses, all required licenses, permits, and registrations. Supplier shall comply with all applicable laws and regulations for performing of its obligations under the Agreement and adhere to all conditions that may be reasonably prescribed by H-D from time to time.
- iii. In addition, Supplier agrees to comply with Harley-Davidson's Supplier Code of Conduct and Doing Business with Harley-Davidson (as set out in **Appendix 6** and as amended and acknowledged by Supplier from time to time).
- iv. The Products are machined, manufactured, fabricated, or assembled in conformity with all applicable local, state, federal, national, provincial, and other governmental laws, regulations and ordinances in each jurisdiction applicable to the Products, including without limitation any data protection and privacy laws and those applicable to trans-border data flow and industrial standards, as well as the Specifications as prescribed by H-D from time to time. At no time shall Supplier violate or be in violation of any applicable laws, regulations or ordinances.
- v. The Products supplied under the Agreement do not contain any toxic substance, asbestos or hazardous material whose use is prohibited under any applicable national, federal, state, provincial, or local law. Supplier further covenants and agrees that, upon request from H-D from time to time, Supplier will submit to H-D information related to the composition of the Products to ensure compliance with various applicable laws, regulations, ordinances and other legal requirements throughout the world, including but not limited to full Product or Product component compositional data and certified reports of the results of tests demonstrating the presence (or absence) of specified chemicals or substances in Products or Product components, all as requested by H-D.
- vi. Supplier is the lawful owner or licensee of the technology, know-how, and other proprietary or Intellectual Property right relating to the Products, and that the Products do not and shall not infringe any intellectual property right of any third party.
- vii. (This subsection applies to the extent Supplier utilizes one or more manufacturing facilities located in an ASEAN country or China and supplies Products to or for H-D's Thailand facilities.) Supplier acknowledges and understands that the Products that H-D procures from Supplier under the Agreement will be used for H-D's machining,

manufacturing, production, or assembly in Thailand to obtain Thailand or ASEAN origin pursuant to the applicable Rules of Origin or comparable scheme under various free trade agreements and duty privileges under a Customs Free Zone scheme or its relevant scheme (including those pertaining to importing motorcycles from the ASEAN region to China). Therefore, Supplier hereby represents, warrants and covenants that all Products produced by or for Supplier within Thailand meet all applicable requirements to be considered of Thailand origin, and that all Products produced by or for Supplier within another ASEAN country or China meet all applicable requirements to be considered of that country's origin, in all cases so that H-D can accurately treat these Products as being of Thailand origin, other ASEAN country origin, or China origin, as applicable, for purposes of H-D's local content or regional value content calculations (as applicable) with respect to the assembled vehicles or powertrains into which the Products are incorporated. Supplier further represents, warrants and covenants that its manufacturing process passes minimal operations criteria. Supplier further acknowledges that the origin of the Products and its minimal operations rule are essential parts of the Agreement and agrees that H-D reserves the right to return the Products any time if H-D finds that they do not conform with the Products' origin or its minimal operations rule set out in this paragraph and the Agreement, and if H-D exercises this right Supplier shall, within seven (7) days, refund the full purchase price of the Products and other costs for shipping the non-conforming products to Supplier.

- viii. (This subsection applies to the extent Supplier utilizes one or more manufacturing facilities located in an ASEAN country or China and supplies Products to or for H-D's Thailand facilities.) Supplier shall monitor any changes which might affect the validity of origin under ATIGA or other relevant free trade agreements, tariff preferential schemes or duty privileges under Customs Free Zone scheme or its relevant scheme. In the event that the origin of the Products is found to be non-ASEAN or non-China or Supplier's manufacturing process is found not consistent with the minimal operations process, or Supplier foresees that there will be such non-conformity, Supplier shall promptly notify H-D in writing, and shall indemnify and hold harmless H-D against, and promptly and fully compensate H-D for, any and all liabilities, claims, losses, costs, taxes, duties, surcharges, penalties, and other expenses in whatsoever form arising out of the failure to comply with this paragraph or with the warranties in Section 27.1(vii).
- ix. In the event that there are any audits, claims, or assessments made against H-D by the governmental authorities on any matter that relates or may relate to the source of the Products or the compliance of H-D products containing the Products, H-D shall, as soon as reasonably necessary, notify, meet with, and discuss in good faith with Supplier the audits, claims, or assessments. Supplier agrees to fully cooperate with and assist H-D in such case and shall take all necessary steps in relation with the audit, claim, or assessment, and shall render all assistance and support as reasonably requested by H-D in relation with the handling and settling of such audit, claim, or assessment.
- x. All Products supplied to H-D by Supplier under the Agreement shall be free and clear of all liens and encumbrances, with good and merchantable title thereto being vested in H-D.
- xi. Supplier shall be liable to H-D for all damages, costs, expenses or losses incurred or suffered by H-D as a result of a breach by Supplier of any representation and warranty, as well as any of its obligations under the Agreement, including in case of a delay in delivery or delivery of defective Products.
- xii. In addition to its other obligations under the Agreement, Supplier will comply with the U.S. Foreign Corrupt Practices Act, and any other similar "anti-bribery" law, and in

particular (but without limitation) will not, directly or indirectly, in the name, on behalf of or for the benefit of H-D, offer, promise or authorize to pay any compensation, or give anything of value to, any official, agent or employee of any government or governmental agency, or to any political party or any officer, employee or agent of any political party. Supplier will require each of its directors, officers, employees, sub-suppliers and agents to comply with the provisions of this paragraph.

28. SUPPLIER CHANGES AND DISCLOSURE REQUIREMENTS

- 28.1 Supplier shall not make any change relating to the Products, including without limitation, in the Products' contents, design, specifications, manufacturing process, manufacturing location, packaging or labeling, shipping, price or date or place of delivery, without H-D's written instruction or prior written approval.
- 28.2 Supplier shall timely respond, following a reasonable due diligence inquiry, to any request or requests made by, or on behalf of, H-D for information relating to the source, origin and chain of custody of "Conflict Minerals" (as defined below) contained in any Products furnished by Supplier to H-D. In order to comply with the foregoing requirement, Supplier shall either (i) register its organization with iPoint Conflict Minerals Program ("IPCMP") (available at <http://www.conflict-minerals.com>), or (ii) complete and submit the Electronic Industry Citizenship Coalition® ("EICC") and the Global e-Sustainability Initiative ("GeSI") (together "EICC-GeSI") Reporting template at <http://www.conflictreesmelter.org>, and submit all requested information to H-D or other requesting party authorized by H-D through a designated medium or portal. For purposes of this Article 28, the term "**Conflict Minerals**" shall mean tantalum, tin, tungsten, gold or other minerals or their compounds that may be designated in the future by the U.S. Secretary of State.
- 28.3 Seller understands and acknowledges that any information provided pursuant to this Article 28 may be used by H-D to comply with certain reporting requirements mandated by the U.S. Securities and Exchange Commission (commonly known as the SEC) under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (commonly known as the Dodd-Frank Act) concerning Conflict Minerals. Supplier shall (i) ensure that all information provided to Buyer in connection with Conflict Minerals and any requirements in connection therewith is current, accurate and complete to the best of its knowledge and belief as of the date of submission, (ii) update such information in a timely manner if the status of any Products provided by Supplier to H-D has changed during Supplier's performance of the Order, and (iii) retain all necessary documentation and records to substantiate the information provided in response to H-D's request.
- 28.4 Supplier's failure to comply with this Article 28 shall constitute a material breach of the Agreement, pursuant to which H-D may, upon written notice to Supplier, immediately terminate the Order without any liability to Supplier.
- 28.5 Supplier shall include substantially the same requirements mandated by Sections 28.1 through 28.4 in each contract with, or purchase order to, any Sub-Tier Supplier that supplies materials, goods or components incorporated in the Products furnished under the Order.

29. TERM AND TERMINATION

- 29.1 The Agreement shall be deemed to have commenced on the Effective Date and shall continue in full force and effect for an indefinite duration unless terminated pursuant to the Agreement (the "**Term**").

- 29.2 Without prejudice to any other rights or remedies under the Agreement or applicable law, H-D or Supplier (as the case may be) may, upon written notice to the other Party, terminate the Agreement with immediate effect:
- i. if the other Party is in material breach of its obligations under the Agreement. However, if the breach can be remedied, the termination shall only take effect if the breach is not or cannot be remedied within thirty (30) days of the breach being notified to the breaching Party; or
 - ii. if the other Party enters into liquidation, becomes insolvent or enters into a deed of arrangement for the benefit of creditors or commits or suffers any equivalent act.
- 29.3 Notwithstanding anything in the Agreement to the contrary, H-D may terminate this Agreement for convenience with sixty (60) days prior written notice to Supplier.
- 29.4 Upon the expiration of the Term or in the event the Agreement is terminated by either Party pursuant to this Agreement, Supplier shall provide reasonable cooperation and assistance to H-D in H-D's transition to a new supplier.

30. MISCELLANEOUS PROVISIONS

- 30.1 All written and electronic communication made under or in connection with the Agreement will be made in English.
- 30.2 Where required by the local laws, the Parties shall translate and execute the local language version of the Agreement, and any amendments to the Agreement, and any other related documents to the Agreement (other than those which are already made and executed in local language) as may be required by prevailing regulations, relevant authorities or the courts order.
- 30.3 The parties agree that if any local language version of the Agreement is prepared and executed, the date of the English language version will be deemed as the effective date of the local language version. Should any inconsistency or different interpretation between the local language version and English version, the English version shall prevail and the relevant local language version shall be deemed to be automatically amended to make the relevant part of the local language version consistent with the English version.
- 30.4 Unless otherwise indicated, currency values set forth in these Terms are expressed in U.S. Dollars. Similarly, unless otherwise agreed by the Parties, all payments herein or in any Order will be made in U.S. Dollars.
- 30.5 Unless otherwise indicated, all references to "days" in the Agreement refer to calendar days.
- 30.6 If the Agreement provides that H-D is to make a payment to Supplier or Supplier is to make a payment to H-D and the time for payment is not specified, the payment will be made within sixty (60) days of the event resulting in the payment obligation or within sixty (60) days of the paying Party's receipt of an invoice from the other Party, whichever is earlier.
- 30.7 Supplier will provide H-D with reasonable access to Supplier's facilities to permit H-D to inspect the production of Products by Supplier.
- 30.8 Supplier will provide H-D such financial information regarding Supplier as H-D may reasonably request to enable H-D to assess Supplier's financial condition. Such information will at least include annual financial statements, but could include additional and more frequent financial information if Supplier's financial condition appears to be weak or weakening.

- 30.9 No failure of a Party to exercise its rights under the Agreement will be considered a waiver of future rights.
- 30.10 At all times Supplier will be an independent contractor to H-D. Any public statements about “partnering” between H-D and Supplier will not create a legal partnership or fiduciary relationship between H-D and Supplier. Neither Party will act as an agent of the other Party. The Agreement is between H-D and Supplier and does not create any third-party rights.
- 30.11 Supplier will comply in all material respects with all applicable laws, rules and regulations when supplying the Products to H-D hereunder. Without limiting the previous sentence, Supplier agrees to remain in material compliance with all environmental, health, safety and labor laws applicable to the operation and use of the facilities at which Products are manufactured or stored.
- 30.12 H-D has adopted an affirmative action policy and has pledged to extend equal employment opportunities to all of its employees, regardless of race, color, creed, age (over 40), sex, religion, national origin, ancestry, citizenship status, disability, handicap, medical condition (cancer related), marital status, sexual orientation, or affectional preference, and to offer promotion and employment to all applicants and employees primarily on the basis of individual merit and qualifications. These equal opportunity personnel actions include, but are not limited to, recruitment, selection, placement, transfer, promotion, compensation action, layoff, recall from layoff, termination, training, development, recreation, social action programs, benefit eligibility, and application of other personnel policies. Veterans and those who are either mentally or physically disabled in a manner which substantially limits one or more of their major life activities are potentially eligible for special consideration under H-D’s affirmative action program. In its United States operations (if any), Supplier agrees to comply with the applicable provisions of Executive Order 11246 of September 24, 1965, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veteran’s Readjustment Assistance Act of 1974, 38 U.S.C. 2012(4212), and all rules and regulations promulgated pursuant thereto by the Secretary of Labor. In its operations outside the United States, Supplier agrees to comply with all comparable applicable laws and regulations.
- 30.13 In addition to its other obligations under the Agreement, Supplier will (i) conduct its business in an ethical and fair manner; (ii) maintain facilities for its workers that provide a safe and healthy environment; (iii) provide wages and benefits that conform to the prevailing industry standards; (iv) not exceed local work hour limits; (v) not, directly or indirectly, use any child labor (i.e. workers younger than 16 years of age or the compulsory age for school attendance), or purchase materials from any entity that uses child labor; (vi) not, directly or indirectly, use prison or other forced labor or purchase materials from any entity that uses prison or other forced labor; and (vii) not discriminate on the basis of personal characteristics or beliefs.
- 30.14 Neither party may assign or transfer any of its rights or obligations under the Agreement without the prior written consent of the other Party, which consent must not be unreasonably withheld. Supplier agrees that any refusal by H-D to consent to an assignment by Supplier to a Competitor of H-D will be considered reasonable. Notwithstanding the foregoing, H-D may assign or transfer any of its rights or obligations under the Agreement to a parent of H-D, any subsidiary of H-D or any subsidiary of a parent of H-D, or in the event of a merger, acquisition or sale of substantially all its assets of the applicable group or division, without the prior written consent of Supplier. The Agreement will be binding on the Parties and their respective permitted successors and assigns, and the assigning Party shall remain liable for its obligations under the Agreement to the maximum extent permitted by applicable law. A Party wishing to assign the Agreement will give reasonable advance written notice of the proposed assignment to the Designated Recipients of the other Party.

- 30.15 TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, H-D WILL NOT BE LIABLE TO SUPPLIER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE ARISING OUT OF THE AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT H-D WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
- 30.16 If any provision in the Agreement is determined to be unenforceable (i) the remainder of the Agreement will continue in effect without regard to the unenforceable provision and (ii) the Parties will promptly through good faith negotiations amend the Agreement to restore, to the maximum extent legally permissible, the benefits, rights and obligations included in the unenforceable provision.
- 30.17 The Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof. It may not be modified except by a written agreement dated subsequent to the date of the Agreement and signed by both parties. The Agreement supersedes and cancels all prior or contemporaneous oral or written agreements concerning such subject matter. In the event of a conflict between the Agreement and any prior agreements between the parties, the terms and conditions of the Agreement shall control.
- 30.18 The use of Supplier's business forms for quotations of prices, to confirm or accept Orders, to accompany shipments, or for any other purpose; or Supplier's use of shrink-wrap, click-wrap, click-through, click-accept or other terms and conditions or agreements for any purpose (collectively, "forms") will be for administrative convenience only. Any terms contained on such forms will not be applicable to any purchase of goods, provision of services, or other performance of any obligations under the Agreement, and those terms shall not apply to the Parties' relationship. H-D's silence or conduct, including without limitation H-D's acceptance of any goods or services, shall not constitute an assent to any additional or different terms.

APPENDIX 1
CONFIDENTIALITY AGREEMENT

SUPPLIER CONFIDENTIALITY AGREEMENT

This is a Confidentiality Agreement between [***NAME OF SUPPLIER***], having its principal place of business at [***ADDRESS OF SUPPLIER***], and its Affiliates (“Supplier”), and **Harley-Davidson Motor Company, Inc.**, having its principal place of business at 3700 W. Juneau Avenue, Milwaukee, Wisconsin 53208, and its Affiliates (“**H-D**”).

BACKGROUND

H-D and Supplier are evaluating the possibility of having, or already have, a business relationship involving the provision by Supplier of products and/or services to H-D and/or H-D's parents, subsidiaries and other related companies. The purpose of this Confidentiality Agreement is to establish the confidentiality obligations of H-D and Supplier during the supplier evaluation period and before, during and after the supply relationship, if any.

AGREEMENT

In consideration of the mutual promises below and for other good and valuable consideration, the parties agree as follows:

Definition of Confidential Information. “**Confidential Information**” is proprietary, trade secret or other non-public information that (1) the disclosing party would reasonably expect the receiving party to keep secret and (2) the disclosing party can prove, through written or electronic records or other physical evidence, was in the disclosing party’s possession at the time of disclosure.

Confidential information does not include information that the receiving party can prove through written or electronic records or other physical evidence:

- (a) at the time of disclosure is generally known to the public;
- (b) becomes generally known to the public through no fault of the receiving party;
- (c) is already rightfully in the possession of the receiving party at the time of disclosure and was not obtained from the disclosing party;
- (d) is later rightfully obtained by the receiving party from a third party not known by the receiving party to be under an obligation of confidentiality to the disclosing party; or
- (e) is later independently developed by the employees or agents of the receiving party who had no access to or knowledge of the confidential information.

Some examples of H-D’s Confidential Information are new product plans, marketing plans, prototype and pre-production parts, cost and price data, non-public financial data, financial and production results and forecasts, RFPs and RFQs and responses thereto, drawings, processes, designs, design criteria, testing methods, third party materials, personally identifiable information, and terms of transactions or supplier agreements. Confidential Information includes Confidential Information of or about or provided by that party’s parents, subsidiaries and other related companies (including, but not limited to, Harley-Davidson Motor Company Operations, Inc., Harley-Davidson Motor Company, Inc., Harley-Davidson, Inc., H-D International Holding Co., Inc., Harley-Davidson (Thailand) Company Limited, HDMC (Thailand) Ltd, H-D Motorcycle (Thailand) Limited, H-D Motor (Thailand) Limited, and Harley-Davidson Financial Services, Inc. for H-D).

Nondisclosure and Nonuse of Confidential Information. Neither party will use or disclose the other party’s Confidential Information except as permitted in this Confidentiality Agreement. The receiving party will use Confidential Information only for the benefit of the disclosing party. The receiving party may disclose Confidential Information to its employees, agents, affiliates, service

providers, and suppliers who need to know the Confidential Information (“**Representatives**”) in order to evaluate a potential supply relationship between H-D and Supplier or to establish, evaluate, maintain or improve a supply relationship between H-D and Supplier. The receiving party’s Representatives will be required to maintain the confidentiality of the Confidential Information and the failure of any of them to maintain confidentiality will be the responsibility of the receiving party. In addition, the receiving party will obtain a written agreement from each of its Representatives to which Confidential Information is disclosed that the Representatives will be bound by confidentiality obligations similar to those contained in this Confidentiality Agreement. Each party agrees to take reasonable precautions to safeguard the other party’s Confidential Information and at a minimum to take the same precautions as it would to safeguard the confidentiality of its own proprietary, trade secret or other non-public information. The receiving party may disclose Confidential Information to the extent disclosure is required by law, but only if the disclosing party is given written notice of the proposed disclosure as soon as the receiving party becomes aware of the disclosure obligation.

Return of Confidential Information. Upon the reasonable request of the disclosing party, the receiving party will promptly return all tangible forms (including electronic) of Confidential Information received by it that have not already been properly disposed of. If requested by the receiving party, the disclosing party will identify the Confidential Information that it believes the receiving party received from the disclosing party. The disclosing party will not request the return of Confidential Information that the receiving party requires to fulfill its contractual obligations, if any, to the disclosing party, or to exercise its rights, if any, under any contract with the disclosing party. The receiving party will only dispose of the disclosing party’s Confidential Information when the Confidential Information is no longer required by the disclosing party. The receiving party will only dispose of Confidential Information (such as documents or prototype or pre-production parts) in a manner that results in the destruction of the Confidential Information (such as shredding) so that the Confidential Information cannot be recovered or used by a third party following disposal.

Term. The parties’ obligations under this Confidentiality Agreement will continue until three (3) years after the date both parties have signed this Confidentiality Agreement or, if Supplier is or becomes a supplier of H-D, until the date (5) five years after Supplier ceases to be a supplier of H-D or its affiliates; except that the parties’ obligations with respect to Confidential Information that constitutes trade secrets under applicable law will continue until the later of the date on which such information no longer constitutes trade secrets or the end of the term defined in the preceding sentence.

Confidentiality of Relationship. In order to prevent one party from unfairly attempting to exploit the other party’s name, trademarks, or reputation, ***neither party will disclose, market, or otherwise publicize the existence of a potential or actual business or supply relationship between H-D and Supplier without the other party’s written consent***, which may be withheld or withdrawn for any reason, except to the extent disclosure is required by law or is otherwise permitted pursuant to this Confidentiality Agreement. Supplier hereby acknowledges and agrees that a disclosure or use of the Confidential Information in violation of this Confidentiality Agreement may cause serious or irreparable damage to H-D and/or the relevant entities. Supplier, therefore, agrees that it shall be fully responsible for compensation or damages as well as all associated costs (including the lawyer’s fee) to H-D and/or its relevant entities for any breach of this Confidentiality Agreement by the Supplier.

Material Non-Public Information. The parties will advise their employees and agents and any Representatives who are informed of or have access to Confidential Information that, in addition to their obligation to keep Confidential Information confidential, the United States securities laws prohibit persons who are in possession of material non-public information concerning a company from purchasing or selling securities of such company.

No Purchase or Supply Obligations. This Confidentiality Agreement, by itself, does not and will not create an obligation on the part of H-D to purchase products or services from Supplier or an obligation on the part of Supplier to supply products or services to H-D. Any such obligations will be the subject of separate agreements between the parties and/or H-D’s subsidiaries and other related

companies, which may incorporate this Confidentiality Agreement and/or include terms and conditions in addition to or different than those set forth in this Confidentiality Agreement.

No Export. Each party acknowledges that Confidential Information which it receives may include technical data developed in the United States subject to export restrictions, and therefore, will not export or re-export any Confidential Information without full compliance with all applicable export laws.

Entire Agreement. This Confidentiality Agreement, and if applicable, the Master Supply Agreement entered into between the parties or their affiliates, constitutes the entire agreement among the parties with respect to the subject matter hereof. It may not be modified except by a written agreement dated subsequent to the date of this Agreement and signed by both parties. This Agreement supersedes any prior confidentiality agreement between the parties herein, but Confidential Information disclosed under the terms of a prior agreement will be deemed to be Confidential Information for purposes of this Confidentiality Agreement. In the event of a conflict between this Confidentiality Agreement and any prior confidentiality agreement between the parties herein, the terms and conditions of this Confidentiality Agreement shall control. None of the provisions of this Confidentiality Agreement will be deemed to have been waived by any act or acquiescence on the part of disclosing party, or its Representatives, except by an instrument in writing signed by an authorized representative of disclosing party. No waiver of any provision of this Agreement will constitute a waiver of any other provision(s) or of the same provision on another occasion.

H-D:
HARLEY-DAVIDSON MOTOR
COMPANY, INC.

Supplier:
[*****]

By: _____
Name: [*****]
Title: [*****]
Date: _____

By: _____
Name: [*****]
Title: [*****]
Date: _____

APPENDIX 2
DATA PRIVACY AND SECURITY

1. Compliance with Consumer Protection, Security, and Privacy Laws. In connection with this Agreement, Supplier may have access to Personal Information or H-D Data. In that event, Supplier represents and warrants that at all times during and after the Term of the Agreement it will:

(a) comply, at its sole expense, with all applicable local, state, federal, and international privacy, confidentiality, consumer protection, advertising, electronic mail, data security, data destruction, and other similar laws, rules, regulations, industry best practices, and any independent data privacy agreement that may be entered into between the Parties, which is hereby incorporated by reference (but only to the extent the data privacy agreement expands H-D's rights under this Agreement or Supplier's obligations under this Agreement, and is relevant to the goods or services to be provided under this Agreement), whether in effect now or in the future (all of the foregoing will be collectively referred to as the "**Privacy and Security Requirements**"). Supplier acknowledges that it alone is responsible for identifying, understanding, and complying with its obligations under the Privacy and Security Requirements as they apply to its performance of this Agreement and possession of the Personal Information and H-D Data;

(b) use, handle, collect, maintain, safeguard, and destroy Personal Information and H-D Data solely as permitted under this Agreement and in accordance with all Privacy and Security Requirements; and, in particular;

(c) maintain and enforce administrative, technical, and physical security procedures designed to ensure the confidentiality, integrity, and availability of Personal Information and H-D Data that are (a) at least equal to those required by all relevant Privacy and Security Requirements, and, to the extent not inconsistent with the foregoing, (b) in accordance with industry best practices for services of this kind;

(d) not transmit or make available any Personal Information to any entity or individual outside the country where Supplier is located (as informed in this Agreement), except that Supplier may transmit or make available the Personal Information and H-D Data back to the United States or other country where an H-D facility using Supplier's services is located; and

(e) not sell, transfer, disclose to any unauthorized person, or use the Personal Information or H-D Data received in connection with this Agreement except, to the extent applicable: (i) to provide the services under this Agreement; (ii) to cooperate with law enforcement investigations, to comply with legally executed subpoenas, or as specifically required by law (provided Supplier notifies H-D immediately of any such request, unless expressly precluded from providing such notice by the applicable process); or (iii) for those other uses, if any, expressly authorized by H-D in writing.

The foregoing requirements are in addition to any other confidentiality and security obligations under the Agreement, including without limitation the Confidentiality Agreement. Nothing contained in this paragraph will be construed as granting Supplier any ownership interest in the Personal Information.

2. Due Diligence; Assistance in Compliance. On written request from H-D, Supplier will provide reasonable documentation, including any applicable third-party audits, substantiating Supplier's compliance with the Privacy and Security Requirements and sufficient to satisfy any due diligence obligations imposed on H-D under any of the Privacy and Security Requirements. At no charge to H-D, Supplier will cooperate with H-D and any regulator or other governmental entity having jurisdiction over H-D or the Personal Information or H-D Data relating to Supplier's performance of this Agreement and possession and use of the Personal Information and H-D Data.

3. Actual or Potential Breach; Cooperation; Notification. Supplier will immediately notify H-D of any actual or suspected breach of confidentiality, privacy or security with regard to Personal Information or H-D Data. At no additional cost, Supplier will fully cooperate with H-D in investigating the breach, including, but not limited to, the provision of system, application, and access logs, conducting forensics reviews of relevant systems, imaging relevant media, and making personnel available for interview. On notice of any actual or suspected breach, Supplier will immediately institute appropriate controls to maintain and preserve all electronic evidence relating to the breach in accordance with industry best practices. In the event any breach of security or confidentiality by

Supplier or its agents requires notification to an individual under any Privacy and Security Requirements, H-D will have sole control over the timing, content, and method of notification and Supplier will promptly reimburse H-D for all costs and expenses incurred as a result of the breach, including but not limited to, notice, print and mailing costs, and the costs of obtaining credit monitoring services and identity theft insurance for the individuals whose Personal Information was or may have been compromised.

4. System Access. In the event the Products require Supplier to access H-D Information Technology, H D will provide Supplier Personnel with access to H-D Information Technology solely so Supplier can better perform its obligations under the Agreement; and provided, that Supplier is permitted to use any H-D Information Technology provided to it solely as necessary for the provision of Products to H-D. Supplier acknowledges that all such H-D Information Technology is owned by H-D. Supplier shall not pledge as collateral or otherwise place or allow any liens or encumbrances upon any H-D Information Technology. Supplier further agrees to execute any license, sublicense or other agreement that may be needed to access software contained in any H-D Information Technology or other systems. In addition, Supplier may only use H-D Information Technology as set forth below:

(a) Limited Use. Supplier may not use H-D Information Technology for incidental purposes unrelated to the provision of Products under the Agreement. Supplier may not use H-D Information Technology for commercial purposes, personal gain, or any other purpose that may create a real or perceived conflict of interest with H-D.

(b) No Expectation of Privacy. Except where applicable law provides otherwise, Supplier and Supplier Personnel should have no expectation of privacy when using the H-D Information Technology, including, but not limited to, transmitting and storing files, data, and messages. Supplier is hereby notified that H-D Information Technology is subject to monitoring.

(c) No Illegal Activities. Supplier is prohibited from using H-D Information Technology for activities that may be deemed illegal under applicable federal, state, local, or international law. If H-D suspects any illegal activities, it may report Supplier or Supplier Personnel to the appropriate authorities and aid in any investigation or prosecution of the individuals involved.

(d) Prohibited Activities. Unless explicitly authorized by H-D's Chief Information Security Officer in writing, H-D prohibits using H-D Information Technology to engage in any activities that may compromise the confidentiality, integrity, and/or availability of H-D Data or H-D Information Technology, including, but not limited to:

- (i). hacking, spoofing, or launching denial of service attacks;
- (ii). gaining or attempting to gain unauthorized access to others' networks or systems;
- (iii). gaining or attempting to gain unauthorized escalation of privileges;
- (iv). sending fraudulent email messages;
- (v). distributing or attempting to distribute malicious software (malware);
- (vi). spying or attempting to install spyware or other unauthorized monitoring or surveillance tools;
- (vii). committing criminal acts such as terrorism, fraud, or identity theft;
- (viii). downloading, storing, or distributing child pornography or other obscene materials;
- (ix). creating undue security risks or negatively impacting the performance of the H-D Information Technology;
- (x). causing embarrassment, loss of reputation, or other harm to H-D;

- (xi). uploading, downloading, or disseminating defamatory, discriminatory, vilifying, sexist, racist, abusive, rude, annoying, insulting, threatening, obscene, or otherwise inappropriate or offensive messages or media;
 - (xii). distributing joke, chain letter, commercial solicitations, or hoax emails or other messages (spamming);
 - (xiii). disrupting the workplace environment, creating a hostile workplace, or invading the privacy of others;
 - (xiv). using Encryption or other technologies in an attempt to hide illegal, unethical, or otherwise inappropriate activities; and
 - (xv). installing or distributing unlicensed or pirated software
- (e) Only Assigned User Accounts. Supplier Personnel may only use their H-D assigned accounts to access the H-D Information Technology, unless they have been specifically authorized in writing to use a device-specific, administrative, or other account.
- (f) Definitions. The following additional defined terms will have the meanings set forth below. The use of any singular or plural form of a word includes the other form, unless context expressly indicates otherwise.
- (i). “**H-D Information Technology**” means any equipment, systems, networks, or applications that are within H-D’s possession, custody, or control, including but not limited to computers, printers, servers, networks, communication systems, software, and other similar items.
 - (ii). “**Supplier Personnel**” means any given employees or other personnel of Supplier (whether a subcontractor or subcontractor employee, or an employee or agent of Supplier).

APPENDIX 3
MINIMUM INSURANCE REQUIREMENTS

Applicable Insurance Requirements may be accessed by referencing Exhibit A to the Cover Letter.

APPENDIX 4
FORM OF ORDER

Orders may be accessed by logging in to the Harley-Davidson Supplier Network at:

<https://www.h-dsn.com/>

APPENDIX 5
ANTI-BRIBERY

1. Supplier acknowledges and understands that H-D is covered by and subject to certain anticorruption laws and regulations, including the U.S. Foreign Corrupt Practices Act (“FCPA”) the UK Bribery Act, and local anti-bribery laws including (but not limited to) Thai Penal Code, the Act Supplementing the Constitution Relating to the Prevention and Suppression of Corruption B.E. 2542 (1999), the Offences by the Officers of State Organizations and Agencies Act B.E. 2502 (1959), and the Act on Offences Relating to the Submission of Bids to State Agencies B.E. 2542 (1999). These anticorruption obligations extend to this contractual relationship. Therefore, Supplier agrees that Supplier has not, and will not, offer, promise, pay, or authorize the payment of any money or anything of value, or take any action in furtherance of such a payment, whether by direct or indirect means, to any government official or any other person whom the local law defines as a governmental official (including but not limited to any political party or official thereof, any candidate for political office, any official of a public international organization, any employees that are owned or controlled by a government) or relative of any government official to influence the decision of such government official in his official capacity to:
 - a. Induce a government official to do or omit to do any act in violation of his or her lawful duty;
 - b. Induce a government official to use his influence with a foreign government or instrumentality to affect or influence any act or decision of such government or instrumentality; or
 - c. Gain any other improper advantage. It is the intent of the Parties that no payments or transfers of value shall be made which have the purpose or effect of public or commercial bribery, acceptance of or acquiesce in extortion, kickbacks or other unlawful or improper means of obtaining business.
2. Supplier agrees that Supplier will complete an Anti-Bribery Certification (the form of which is attached hereto) as a condition precedent to this Agreement (which shall not be requested more than annually) if requested by H-D. Any failure to complete such Anti-Bribery Certification at the request of H-D shall be considered a material breach of the Agreement.
3. Supplier agrees that Supplier will complete anti-bribery training as a condition precedent to this Agreement (which shall not be requested more than annually) if requested by H-D. Any failure to complete such anti-bribery training at the request of H-D shall be considered a material breach of the Agreement.
4. Supplier stipulates that that no government official holds an ownership interest in Supplier or in the contractual relationship established by this Agreement.
5. Supplier agrees to have a continuing obligation to advise H-D of any of its actions that could expose H-D to FCPA liability.
6. Supplier acknowledges and understands that H-D has the right to disclose any FCPA violation by Supplier to the government.
7. Supplier shall maintain complete and accurate books, records, invoices, and other documents concerning payments or expenses on behalf of, or related to, this Agreement.
8. If H-D has reasonable grounds to believe that any representation covering the anticorruption requirements contained in this Agreement or in the Anti-Bribery Certification has been breached, or that a bribery-related violation has occurred or is about to occur, notwithstanding anything to the contrary herein, H-D may withhold further payments pursuant to this Agreement or take such further action H-D reasonably determines is necessary until it has received adequate confirmation

that Supplier is in compliance with the terms of this Agreement and that no violations of bribery-related laws have occurred or will occur. Supplier agrees that if H-D views it as reasonably necessary, Supplier will allow H-D to examine Supplier's books and records to assist and cooperate with H-D in confirming compliance with the applicable anticorruption laws.

9. Any breach of this Agreement or any actions by Supplier that may subject H-D to liability under the FCPA will have the effect of voiding this Agreement ab initio without the requirement of any written notice of cancellation, in which case (i) any claims for payment under this Agreement shall be automatically terminated and cancelled, and H-D will incur no obligation to make such payments and (ii) any and all payments previously made shall be returned to H-D.
10. H-D is not obligated to take any actions or omit to take any actions under this Agreement that H-D reasonably believes would cause it to violate the laws of any country, including the FCPA or the UK Bribery Act.
11. Supplier agrees to indemnify H-D for any costs, fees, expenses or fines or penalties incurred by H-D as a result of Supplier's breach of these obligations.

APPENDIX 6
GOVERNING LAW / ARBITRATION VENUE

The Governing Law/Arbitration Venue appendix may be accessed by logging in to the Harley-Davidson Supplier Network at:

<https://www.h-dsn.com/>

APPENDIX 7
SUPPLIER CODE OF CONDUCT AND DOING BUSINESS WITH HARLEY-DAVIDSON

The Supplier Code of Conduct and Doing Business with Harley-Davidson can be found by logging in to the Harley-Davidson Supplier Network portal, <https://www.h-dsn.com/>

Please note that the Supplier Code of Conduct and Doing Business with Harley-Davidson, and other important information on the Harley-Davidson Supplier Network may be updated from time to time, and it is Supplier's responsibility to comply and remain in compliance with all instructions and policies found on the Harley-Davidson Supplier Network.