

# IAV AUTOMOTIVE ENGINEERING INC. GENERAL TERMS AND CONDITIONS

## 1. Applicability

Except to the extent a duly authorized officer of IAV Automotive Engineering Inc. ("IAV Inc.") otherwise expressly and specifically agrees in writing, these General Terms and Conditions are applicable to, and are an integral part of, every Contract, Quotation or Offer of IAV Inc. for the sale of Products (including, without limitation, hardware, software and algorithms) or the furnishing of Services (including, without limitation, research, development, calibration and training) to anyone who has purchased or obtained, or has agreed or seeks to purchase or obtain, Products or Services from IAV Inc. (the "Customer"), as well as an integral part of every Purchase Order from the Customer to IAV Inc. for Products or Services and any acknowledgment, confirmation or acceptance by IAV Inc. of such Purchase Order ("IAV Inc.'s Order Acknowledgment"). Moreover, these General Terms and Conditions, together with any written Quotation or Offer by IAV Inc. and IAV Inc.'s Order Acknowledgment, constitute the entire Contract between IAV Inc. and the Customer. No waiver, alteration or modification of any provision of these General Terms and Conditions by IAV Inc. (unless express, specific and contained in a writing signed by a duly authorized officer of IAV Inc.), and no terms, conditions or provisions specified by the Customer in the Customer's Purchase Order or otherwise (whether oral, typed, written or printed) which in any way change, modify, amplify, conflict with, differ from or add to these General Terms and Conditions, IAV's Quotation or Offer or IAV's Order Acknowledgment are null and void and of no effect and are not or binding upon IAV Inc., even if IAV Inc. does not expressly object to such terms, conditions or provisions and regardless of whether such terms, conditions or provisions are specified subsequent to IAV Inc.'s Quotation or Offer or subsequent to IAV Inc.'s Order Acknowledgment. In particular, and without limitation, no such waiver, alteration or modification shall be effected by any receipt, acceptance, acknowledgment or confirmation by IAV Inc. of any Purchase Order form or other document containing conflicting, different or additional terms, conditions or provisions.

## 2. Commencement by IAV Inc.

IAV Inc. is not obligated to commence, or to prepare to commence, to deliver Products or furnish Services to the Customer pursuant to any Quotation or Offer unless and until such Quotation or Offer is accepted by the Customer, within the time and in accordance with all of the provisions, terms and conditions of the Quotation or Offer. Nevertheless, IAV Inc. may, at its discretion, commence, or prepare to commence, to deliver such Products or to furnish such Services prior to acceptance by the Customer of the Quotation or Offer, if IAV Inc. receives a letter of intent or other confirmation indicating that the Customer intends to accept, or that the Customer is proceeding to accept, the Quotation or Offer, whether by the issuance of its Purchaser Order or in some other manner. In the event IAV Inc. commences to deliver or prepares to commence to deliver Products or furnish Services prior to such acceptance of the Quotation or Offer, and the Quotation or Offer is subsequently rejected by the Customer, or is not accepted by the Customer within the time and in accordance with all of the provisions, terms and conditions of the Quotation or Offer, IAV Inc. may terminate such activities, and the Customer shall, upon receipt of IAV Inc.'s invoice therefor, promptly reimburse IAV Inc. for all costs and expenses incurred by IAV Inc. in connection therewith.

## 3. Contract Changes

No change with respect to the Products to be delivered or the Services to be furnished by IAV Inc. pursuant to the Contract, and no reduction in the amount required to be paid by the Customer pursuant to the Contract by reason of a change requested by the Customer with respect to such Products or Services, shall be made, except to the extent expressly and specifically agreed in writing by a duly authorized officer of IAV Inc. The Customer will pay to IAV Inc. its then current prices and its then current rates for all Products and Services not specified in the Contract which are provided by IAV Inc. to the Customer at the Customer's request. IAV Inc. reserves the right to reject any change requested by the Customer with respect to any Product or Service, particularly if IAV Inc. deems such change unsafe, technically inadvisable, inconsistent with established engineering or quality guidelines or standards or incompatible with IAV Inc.'s design, manufacturing or assembly capabilities.

## 4. Contract Termination

Neither IAV Inc. nor the Customer may terminate the Contract except for a material breach of or default under the Contract by the other party. In the event of such a material breach or default, the non-breaching party or non-defaulting party may terminate the Contract by serving on the breaching or defaulting party a written notice specifying the breach or default. If the breaching or defaulting party fails to cure the breach or default within thirty days after receipt of such notice, the Contract shall terminate automatically on the day following the expiration of such thirty day period. In the event of a breach or default by either party, the other party shall have remedies provided by law, unless otherwise expressly and specifically provided in the Contract.

## 5. Prices and Rates

Price, rate and other information shown in any IAV Inc. publication (including catalogs and brochures) are subject to change without notice. Such publications

are not offers by IAV Inc. and are only a source of general information. The Customer will pay for all Products and Services delivered and furnished by IAV Inc. pursuant to the Contract at the prices and rates set forth in IAV Inc.'s Quotation or Offer or in IAV Inc.'s Order Acknowledgment. The Customer will also pay or reimburse IAV Inc. for all sales, use, excise or similar taxes. Unless otherwise expressly and specifically set forth in IAV Inc.'s Quotation or Offer or in IAV Inc.'s Order Acknowledgment, the Customer will pay IAV Inc. for Services furnished by IAV Inc. on a time and materials basis in accordance with IAV Inc.'s published service rates (plus applicable overtime and travel expenses) in effect as of the date such Services are furnished. Billable Service time includes travel time to and from the job site and all time IAV Inc.'s personnel are available for work and waiting (whether on or off the job site).

## 6. Payment Terms

Net thirty days from date of invoice with ongoing approved credit, as determined by IAV Inc. IAV Inc. reserves the right to suspend any further performance in the event payment is not made when due. No offset is permitted unless approved in writing by a duly authorized officer of IAV Inc.

## 7. Delivery Terms

Ex works, Ann Arbor, Michigan. Time of delivery is not of the essence. All specified times of delivery are only estimates and approximations, which are not binding on IAV Inc. and which, among other things, are based on prompt receipt of all necessary motor vehicles, equipment and information from the Customer.

## 8. Risk of Loss

Risk of loss with respect to all Products will pass to the Customer upon delivery by IAV Inc. to the carrier at the shipping point, notwithstanding any terms of sale or delivery.

## 9. Transfer of Ownership

All products and deliverables produced in accordance to the Contract remain the property of IAV Inc. until payment is received in full.

## 10. Non-Delivery or Delay; Force Majeure

IAV Inc. will not be liable for any loss, damage or delay arising out of its failure to perform under the Contract due to causes beyond its control, including, without limitation, acts of God or the Customer, acts of civil or military authority, fires, floods, epidemics, quarantine restrictions, war, riots, delays in transportation or transportation embargoes, civil disturbances, strikes, lockouts, other labor troubles, droughts, storms, marine perils, accidents, governmental action, inability to secure materials, supplies or personnel or any other event, cause or circumstance which makes impracticable the production, transportation, delivery or performance of the Products or Services. In the event of any such delay, IAV Inc.'s performance time will be extended for such length of time as may reasonably necessary to compensate for the delay.

## 11. Customer Use of Products and Services

All Products and Services are for non-commercial use only, unless the parties have not agreed on commercial use in the contract, and the Products may be used only for development, testing, or research purposes. Use in motor vehicles may alter the behavior or performance of such vehicles.

## 12. Warranty

A. Hardware  
IAV Inc. warrants, for a period of 12 months from the date of shipment to the Customer, or for such other period as may be specified in the Contract, that hardware furnished by IAV Inc. pursuant to the Contract will, at the time of shipment, be of merchantable quality, free from defects in material and workmanship and meet IAV Inc.'s specifications for such hardware.

B. Software and Algorithms  
IAV Inc. warrants that software and algorithms furnished by IAV Inc. pursuant to the Contract will meet IAV Inc.'s specifications therefor.

C. Services  
IAV Inc. warrants that Services furnished by IAV Inc. pursuant to the Contract, whether furnished at a fixed cost or on time-and-material basis, will be performed in accordance with generally accepted industry practices.

D. Customer Specifications  
IAV Inc. does not warrant and will not be liable for any design, materials or construction criteria furnished or specified by the Customer and incorporated into the Products or utilized in performing the Services, or for Products or Services made by or sourced from manufacturers or vendors specified by the Customer.

## E. Remedies

If IAV Inc. determines that any Product delivered by IAV Inc. to the Customer or any Service furnished by IAV Inc. to the Customer does not conform to the foregoing

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warranty for such Product or Service, IAV Inc. will, at its option, either replace, repair, reperform or modify, or issue a credit for the amount paid by the Customer for, the Product or Service involved, and, if applicable, following the return of the Product to IAV Inc. No Product may be returned by the Customer without IAV Inc.'s prior written approval. Any warranty service (consisting of time, travel and expenses related to such service) performed other than at IAV Inc.'s facilities, will be at the Customer's expense. This is the Customer's sole and exclusive remedy for claims relating to or arising with respect to all Product and Services.

## F. DISCLAIMER

THE FOREGOING WARRANTIES EXTEND ONLY TO THE CUSTOMER AND ARE IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES OF IAV INC., WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO ANY PRODUCT SUPPLIED BY IAV INC. OR ANY SERVICE PERFORMED BY IAV INC., INCLUDING, BUT NOT BY WAY OF LIMITATION: (1) ANY REPRESENTATION OR WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF SUCH PRODUCT OR SERVICE; (2) ANY PERFORMANCE, APPLICATION OR COMPATIBILITY REPRESENTATION OR WARRANTY; (3) ANY REPRESENTATION OR WARRANTY AS TO THE RESULTS WHICH MAY BE OBTAINED FROM ANY HARDWARE, SOFTWARE OR ALGORITHM; OR (4) ANY REPRESENTATION OR WARRANTY THAT THE OPERATION OF ANY HARDWARE, SOFTWARE OR ALGORITHM WILL BE ERROR FREE, OR OPERATE WITHOUT INTERRUPTION, OR THAT THE FUNCTIONS CONTAINED THEREIN WILL MEET OR SATISFY THE CUSTOMER'S INTENDED USE OR REQUIREMENTS. IAV INC. MAKES NO OTHER REPRESENTATION OR WARRANTY AND SPECIFICALLY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES.

## G. General

Warranty replacements, repairs, reperformance, modifications or credits are available only if IAV Inc. is notified by the Customer in writing, during the warrant period, of the alleged defect or deficiency and IAV Inc.'s examination discloses, to its satisfaction, that any alleged defect or deficiency has not been caused by misuse; neglect; improper installation, operation, maintenance, repair, alteration or modification; accident; or deterioration or degradation due to physical environment or electrical or electromagnetic noise environment.

### 13. Limit of Liability

IN NO EVENT SHALL IAV INC. BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL OR INDIRECT DAMAGES OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, INTEREST, EARNINGS OR USE), WHETHER BASED ON CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, TORT OR OTHERWISE, ARISING OUT OF OR RELATING TO THE SALE, USE, QUALITY, CONDITION, DELIVERY, NON-DELIVERY, PERFORMANCE, OR NON-PERFORMANCE OF ANY PRODUCT OR SERVICE, ANY ACT OR OMISSION OF IAV INC., ANY ENGINEERING OR DESIGN CONCEPT OR CALCULATION OR ANY DRAWINGS, SOFTWARE PROGRAMS, DESIGNS OR DOCUMENTATION, REGARDLESS OF WHETHER OR NOT IAV INC. HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. MOREOVER, IAV INC.'S MAXIMUM CUMULATIVE LIABILITY WITH RESPECT TO ALL CLAIMS AND LIABILITIES, INCLUDING CLAIMS FOR DIRECT DAMAGES OR INDEMNITY, WHETHER OR NOT INSURED, SHALL NOT EXCEED THE AMOUNT PAID BY THE CUSTOMER FOR THE PRODUCT OR SERVICE GIVING RISE TO THE CLAIM OR LIABILITY. ANY ACTION AGAINST IAV INC., MUST BE BROUGHT WITHIN TWELVE MONTHS AFTER THE CAUSE OF ACTION ACCRUES. THESE DISCLAIMERS AND LIMITATIONS OF LIABILITY WILL APPLY REGARDLESS OF ANY CONTRARY OR OTHER PROVISION OF THE CONTRACT AND WILL EXTEND TO THE BENEFIT OF IAV INC.'S VENDORS. EACH PROVISION IN THE CONTRACT WHICH PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTY OR EXCLUSION OF DAMAGES IS SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION AND IS TO BE ENFORCED AS SUCH.

### 14. Indemnity

The Customer will indemnify and save and hold IAV INC. free and harmless of and from and, upon IAV INC.'s written request, defend IAV INC. against, any and all claims, demands, liabilities, suits, actions, proceedings, damages, costs and expenses, including attorneys' fees, incident to or arising out of or in connection with or relating to the use of the Products or Services by the Customer or others, including, but not limited to, those related to injury or death of the Customer's employees or others. IAV Inc. may participate in any such defense to such extent as IAV Inc., in its sole discretion, may determine.

### 15. Intellectual Property and Personnel

#### A. IAV Inc.'s Intellectual Property

IAV Inc. retains all right, title and ownership to all intellectual property incorporated in any software, hardware or other Product delivered by IAV Inc. to the Customer, as well as in all inventions, discoveries or other intellectual property created in the development of any software, algorithm or other Product for the Customer pursuant to by the Contract. However, IAV Inc. grants to the Customer a non-exclusive, paid

up license to use such intellectual property in the Customer's own business for the purpose for which such software, algorithm or other Product is provided by IAV Inc. The Customer shall not (i) duplicate or make copies of, or reverse engineer, decompile, disassemble or decrypt any Product or any portion thereof or create derivative works thereof, (ii) modify any Product in any way, (iii) authorize or permit any third party to utilize any Product or Service or utilize any Product or Service on behalf of any third party or (iv) rent, lease or otherwise transfer or use any Product or Service, except as expressly and specifically authorized pursuant to the Contract.

#### B. Third Party Intellectual Property Rights

IAV Inc. has made no investigation as to whether any Product or Service to be delivered or furnished pursuant to the Contract utilizes or infringes any intellectual property of any third party. Accordingly, hardware, software and algorithms provided by IAV Inc. may include intellectual property or other rights of third parties, and IAV Inc. makes no warranty or representation with respect thereto. IAV Inc., however, will defend any suit or proceeding brought against the Customer based on a claim that a Product sold by IAV to the Customer pursuant to the Contract infringes any United States Patent, provided that the Customer promptly notifies IAV Inc. of any such claim and resulting suit or proceeding in writing and further provided that (i) the Customer gives IAV Inc. the sole right to defend or control the defense of the suit or proceeding, including settlement, and (ii) the Customer provides all necessary information and assistance for such defense. IAV Inc. will pay all costs and damages finally awarded or agreed upon by IAV Inc. that are directly related to any such claim. IAV Inc.'s obligation under the Contract will be fulfilled if IAV Inc., at its option and expense, either (i) procures for the Customer the right to use such Product, (ii) replaces such Product with a non-infringing Product, (iii) modifies such Product so as to make it noninfringing or (iv) accepts the return of such Product and refunds to the Customer the amount paid to IAV Inc. by the Customer for such Product. Notwithstanding the foregoing, IAV Inc. will have no liability with respect to any claim of infringement to the extent based on (i) any configuration or modification incorporated in the Product at the request of the Customer, (ii) any application to which the Product is put by the Customer or (iii) any use of the Product in combination with equipment or products not supplied by IAV Inc. THIS PARAGRAPH B SETS FORTH IAV INC.'S ENTIRE LIABILITY WITH RESPECT TO INFRINGEMENT OF PATENTS OR OTHER INTELLECTUAL PROPERTY OF THIRD PARTIES BY ANY PRODUCT OR SERVICE (INCLUDING, WITHOUT LIMITATION, SOFTWARE AND ALGORITHMS) OR BY THE OPERATION OR USE THEREOF, AND IS IN LIEU OF ALL OTHER WARRANTIES, OBLIGATIONS AND LIABILITIES, EITHER EXPRESS OR IMPLIED, RELATING TO INFRINGEMENT OR INTELLECTUAL RIGHTS OF THIRD PARTIES.

#### C. IAV Inc. Personnel

Without the prior written consent of IAV Inc. the Customer shall not recruit or hire or otherwise engage any personnel of IAV Inc. until twelve months after the completion of the Contract.

### 16. Waiver

No waiver by IAV Inc. of any breach of any term or condition shall be construed as a waiver of any subsequent breach of the same or any other term or condition.

### 17. Governing Law and Jurisdiction

The Contract and all disputes between IAV Inc and the Customer shall be governed by and interpreted in accordance with the internal laws of the State of Michigan, without reference to Michigan's conflict of laws principles. Neither the Hague Uniform Law for the Sales of Goods of July 7, 1964 nor the United Nations Convention on Contracts for the International Sales of Goods (Vienna 1980) will be applicable. For all litigation of disputes or controversies which may arise between the Customer and IAV Inc., the Customer and IAV Inc. consent to the exclusive jurisdiction of the courts of the State of Michigan and the United States district courts sitting in the State of Michigan, and agree that any and all such disputes and controversies shall be determined exclusively by one of such courts, except that IAV Inc., at its election, may also commence and prosecute such litigation in any jurisdiction in which the Customer does or transacts any business. The Customer also agrees that any and all process served upon the Customer outside of the State of Michigan or any such other jurisdiction shall have the same force and effect as if such service had been made within the State of Michigan or such other jurisdiction.

### 18. Assignment

The Contract may not be assigned by the Customer without the prior written consent of IAV Inc.