

DATED \_\_\_\_\_, 20\*

(Marelli Holdings Co. Ltd.)

AND

(Name of Supplier)

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**MARELLI PURCHASE AGREEMENT**

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This Marelli Purchase Agreement is made the \_\_\_\_ day of \_\_\_\_\_, 20\* (“Effective Date”)

BETWEEN:

- (1) Marelli Holdings Co., Ltd., a corporation organized and existing under the law of Japan and having its registered office at 2-1917 Nissin-Cho, Kita-ku, Saitama-Shi, Saitama, 331-8501 Japan (“MARELLI”); and
- (2) [ \_\_\_\_\_ ], a corporation organized and existing under the laws of [ \_\_\_\_\_ ] and having its registered office at \_\_\_\_\_ (“Supplier”)

(collectively, the “Parties” and individually a “Party”).

Background

- (A) MARELLI is a holding company of which Affiliates (defined below) are engaged in the design, manufacture, assembly and/or sale of modules, assemblies or components for automobiles.
- (B) Supplier and its Affiliates are also engaged in the design, manufacture and/or sale of motor vehicle components.
- (C) MARELLI wishes to procure motor vehicle components to be equipped with products as set out above (A) from Supplier under the following terms and conditions.

Now, therefore, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree to the terms and conditions set forth in this Agreement.

## Article 1. Definitions and Interpretation

1.1 In this Agreement the following terms shall have the following meanings:

“Acceptance Drawing” means a drawing in any medium, including an electronic version in a CAD format, made by Supplier based upon specification tenders provided by MARELLI or any of its Affiliates and design-released by MARELLI or any of its Affiliates;

“Affiliates” mean any company, or other legal entity, directly or indirectly Controlling, Controlled by, or under common Control with another company or legal entity. The terms “Controlling”, “Controlled”

and “Control” mean (i) ownership, direct or indirect, of more than fifty (50) percent of the voting rights in a legal entity, or (ii) the power to appoint or elect a majority of the directors of in a legal entity, or (iii) the power to direct the management of a legal entity. Any such legal entity shall be considered an Affiliate for only such time as such voting rights or powers are maintained;

For avoidance of doubts, for the purpose of this Agreement, whenever the term “Affiliate” is referred to MARELLI, it shall only include and relate to any companies or other legal entities which are directly or indirectly under the Control of MARELLI, excluding entities which are Controlling or under common Control with MARELLI.

- “Agreement” means this Marelli Purchase Agreement, including the Claim Compensation Procedure and the Form of the letter of accession;
- “Applicable Law” means all laws, rules, regulations and executive or judicial orders applicable in any jurisdiction where the Products are manufactured and any jurisdiction where the Products or vehicles equipped with the Products will be sold;
- “Background Patents” mean (i) any registered patent, registered utility model or registered design right acquired or owned prior to starting the Development Work; or (ii) any application to register a patent, utility model or design right filed prior to starting the Development Work;
- “Carmaker” means a company that manufactures automobiles;
- “Claim Compensation Procedure” means the procedure by which MARELLI is reimbursed for the warranty cost by Supplier, a copy of the current version of which is attached hereto as Schedule 1;
- “Closed Order” means a request, addressed from MARELLI to Supplier, for the purchase/supply of a specified

	quantity of Products;
“Confidential Information”	has the meaning set out in Article 22.1;
“Consignment Stock Agreements”:	mean the agreements, ancillary to the Agreement, for the management of the Products in consignment stock, as may be entered into from time to time between MARELLI and Supplier.
“Development Work”	means all works necessary to develop the Products, so that the Products meet all Specifications and are fit for their intended purpose;
“Firm Order”	means an Open Order (provided that such Open Order is followed by a relevant Logistic Program) or a Closed Order;
“Intellectual Property Rights”	means any patent, utility model, design right, copyright (including any right in computer software), database right or topography right (whether or not any of these are registered and including applications for registrations of any such thing) and any trade secret, know-how or any right or form of protection of a similar nature or having equivalent or similar effect to any of those which may subsist anywhere in the world, including any trademark, service mark, trade or business name of each Party;
“Logistic Programs”:	mean the periodic delivery programs by means of which MARELLI indicates to Supplier the quantities to be delivered, as well as the delivery date and the exact location. Only the quantities indicated in a Logistic Program constitute a firm commitment to buy Products;
“Logistic Agreements”	mean the agreements, ancillary to the Agreement, for the logistic services of Products as may be entered into from time to time between MARELLI and Supplier;
“MARELLI”:	means Marelli Holdings Co., Ltd;
“MARELLI Drawing”	means a drawing in any medium, including an

electronic version in a CAD format, specification tender, standard or other technical document of similar nature made by or belonging to MARELLI or any of its Affiliates;

- “MARELLI Property” has the meaning set out in Article 17.3;
- “MPA” means this Marelli Purchase Agreement;
- “Open Order”:  
means a request, addressed by MARELLI to Supplier, concerning the purchase/supply of Products, without any binding determination of the quantity of Products to be supplied, which contemplates the issuance by MARELLI of Logistic Programs;
- “Operating Regulations”:  
mean standards, specifications, rules, circular letters, procedures and any other similar regulations governing and detailing the performance of the Agreements entered into by MARELLI and Supplier, as made available from time to time to Supplier;
- “Price” means the price of the Products identified in the applicable Purchase Order;
- “Product”:  
means all goods particularly described in any Purchase Order and/or under this Agreement, supplied by Supplier to MARELLI;
- “Purchase Order” means an Open Order and/or a Closed Order;
- “Quality Specifications”:  
mean a document agreed in writing by MARELLI and Supplier identifying quality characteristics of a specified Product with the goal of the zero (0) defect production;
- “Service Parts” has the meaning set out in Article 19;
- “Specifications” mean a document agreed in writing by MARELLI and Supplier identifying the technical, operating, quality and reliability characteristics of a specified Product;
- “Subcontractors” has the meaning set out in Article 21;

“Supplier”	means the company or other entity subscribing this Agreement for the supply of the Products. This definition of Supplier includes the Affiliates of the Supplier to which a Purchase Order is addressed by MARELLI;
“Technical Information”	has the meaning set out in Article 14.2;
“Tooling”	all tools, jigs, dies, gauges, fixtures, moulds, patterns and other equipment used by Supplier in manufacturing the Products;
“Vendor Tooling”	all Tooling paid or to be paid for by MARELLI, and used by Supplier in manufacturing the Products.

1.2 In this Agreement:

- (1) the above definitions are equally applicable to both the singular and plural forms of any of the terms defined in this Article;
- (2) the headings are for convenience only and shall not affect the interpretation of this Agreement;
- (3) the word “including” shall not be given a restrictive interpretation by reason of it being followed by words indicating a particular class of acts, matters or things; and
- (4) any reference to a statutory provision includes a reference to any modification or re-enactment of the provision from time to time in force and all subordinate instruments, orders or regulations made under it.

**Article 2. Agreement**

2.1 MARELLI agrees to purchase and Supplier agrees to sell the Products under the terms and conditions of this Agreement; provided, however, that specific commitments to purchase and sell shall be subject to the issuance by MARELLI (or by its own Affiliates) of a Firm Order and acceptance by Supplier thereupon.

2.2 The commencing of the activities for the performance of the Purchase Order by Seller shall be deemed to constitute acceptance of the Firm Order, even if no other formalities have taken place. In any case, Supplier shall have term of up to 3 (three) business days from the issuance of the Firm Order to state its express acceptance of the Firm Order. If no statement is made within such term, it shall be assumed the tacit acceptance of the Firm Order.

2.3 The Parties acknowledge that Supplier enters into this Agreement for Supplier itself and

on behalf of its Affiliates (if any).

- 2.4 Any Affiliate of MARELLI may accede to this Agreement by an issuance to Supplier of a specific letter of accession - substantially in the form set out in Schedule 2 - so adhering to this Agreement.
- 2.5 In the event that this Agreement applies to an Affiliate of MARELLI, as a result of an issued letter of accession, this Agreement shall be read (where the context so permits) as if the defined term "MARELLI" is referred to such Affiliate of MARELLI.
- 2.6 Each MARELLI's Affiliate will be liable only for its own obligations that arise under this Agreement as a result of an issued letter of accession. For avoidance of doubt, such MARELLI's Affiliate will have no joint and several liabilities under this Agreement.

### **Article 3. Specifications and Stock**

- 3.1 Supplier shall manufacture the Products in accordance with:
  - (1) MARELLI Drawings;
  - (2) Acceptance Drawings; and
  - (3) Specifications other than above (1) and (2).
- 3.2 After MARELLI Drawings and Specifications are provided to Supplier, and before Supplier manufactures the Products, Supplier shall review the same. Supplier shall immediately notify MARELLI in the event that Supplier has reason to believe that any MARELLI Drawing or Specification is inadequate to produce the Products that will satisfy all warranties in Article 9 and that will function throughout the greater of the expected life of the Products or the applicable warranty period.
- 3.3 Supplier agrees to keep adequate stocks of Products in its warehouses at its own cost and during the term of this Agreement, according to the monthly demand specified in supplying plans; Supplier agrees to immediately replenish the stock of Products when they are used, in order to meet Purchase Orders.
- 3.4 In case of default by Supplier on the above Article 3.3, MARELLI shall have the right to charge Supplier all costs and damages incurred as a result of its failure, without prejudice to the right to terminate this Agreement in accordance with Art. 28.
- 3.5 Supplier represents for all purposes:
  - a) to have all records, licenses and public authorizations required and undertakes to remain as such during the validity of this Agreement and any extension thereto;
  - b) to have all technical, operational and economic conditions to perform this Agreement also being aware of the risks, expectations and convenience thereon;
  - c) no significant investment has been made and shall be made except upon express consent by MARELLI. Therefore, the prior notice shall be provided to MARELLI, which is entirely suitable, sufficient and satisfactory.



#### **Article 4. Delivery**

- 4.1 Unless otherwise agreed between MARELLI and Supplier, Supplier shall deliver, and MARELLI shall accept, the Products on DDP basis as defined in the International Commercial Terms (Incoterms 2010) of the International Chamber of Commerce subject to amendments in part hereof.
- 4.2 MARELLI may issue one or more Firm Order(s) to Supplier specifying the quantities of the Products to be purchased and the required delivery dates.
- 4.3 Supplier shall deliver the Products to MARELLI in the quantity and by the time specified by MARELLI. Supplier's obligations relating to the time for production and/or delivery of the Products are integral parts of and constitute conditions of this Agreement. In the event that the delivery of the Products to MARELLI is likely to be delayed, Supplier shall notify MARELLI thereof in advance; provided that such notice shall not release Supplier from its liabilities for all costs, losses and consequential damages resulting from incomplete or delayed delivery; without prejudice to MARELLI's other available rights and remedies, MARELLI shall have the right to reject in whole or in part the delivery of the Products. Supplier is responsible for all costs (including those arising out of currency fluctuations) and losses (including loss of profits), as reasonably calculated by MARELLI, due to incomplete or delayed delivery.
- 4.4 Shipments in excess of quantities specified by MARELLI may be returned to Supplier, and Supplier shall pay MARELLI for all return handling and transportation expenses. MARELLI reserves the right to accept, at its sole discretion, in whole or in part, any Products delivered in excess of those specified by MARELLI and may, but shall not be obliged to, make such payment as MARELLI considers appropriate in respect of the excess Products. MARELLI shall not be obliged to give notice to Supplier of its acceptance or rejection of any Products delivered in excess of those specified.
- 4.5 MARELLI reserves the right, at its sole discretion, to place emergency orders in addition to regular orders placed from time to time under this Agreement or to require Supplier to deliver the Products earlier than the time originally specified by MARELLI. In any such case Supplier shall use its best efforts to comply with such emergency orders or revised timetable.
- 4.6 Supplier shall timely and accurately fulfill all requests by MARELLI, or its designated agents, for country of origin certification for all Products supplied to MARELLI whether or not preferential origin or tariff treatment applies. This includes, for example, but without limitation, national or international certifications and data for various and applicable Free Trade Agreements, Generalized System of Preferences, Average Fuel Economy and Labeling etc.
- 4.7 Partial deliveries are not allowed, unless so agreed in writing by the Parties.
- 4.8 Supplier shall supply, together with the delivery, all necessary documents needed for Products usage (for example, user, technical and installation manuals, warranties, etc.).

- 4.9 Where not otherwise specified in writing, carriage of Products shall be fully at Supplier's own risk and expense.
- 4.10 In the event of:
1. missed or delayed or not compliant delivery at the fault of the Supplier;
  2. delivery at a place different from the one specified by MARELLI,

MARELLI shall have, in its sole discretion, the right to procure elsewhere, at any time, in whole or in part, the Products ordered, at Supplier's cost and risks, with the sole obligation of notifying Supplier.

- 4.11 In any case and without prejudice to any further right or remedy, MARELLI shall have the right, but not the obligation, to charge to Supplier an amount equal to 1.5% of the total value of the delayed Products shipments for every 5 business days of delay, provided that the maximum amount of such additional charges, applicable from time to time to any single delay may not exceed 10% of the value of the undelivered Products. This amount represents a simple estimate of the damage agreed in advance by MARELLI and by Supplier and shall not preclude the right to MARELLI to claim compensation for any further damage and, in the case of exceeding this amount, to terminate, with immediate effect, by simple communication, this Agreement.

#### **Article 5. Receipt and Inspection**

- 5.1 The title to and risk of loss or damage to the Products shall pass from Supplier to MARELLI at the time of delivery of the Products to MARELLI. MARELLI reserves the right to inspect the Products in accordance with the standards issued by MARELLI from time to time.
- 5.2 MARELLI may reject any Products that are defective, damaged or non-conforming to or in breach of Supplier's warranties at any time before sale of the Products or upon notice from a manufacturer of vehicles equipped with the Products indicating the existence of the Products that are defective, damaged or non-conforming to or in breach of supplier's warranties. In such case, Supplier shall be notified about self-evident defects immediately after they have been recognized.
- 5.3 Payment to Supplier shall not be construed as acceptance by MARELLI or agreement by MARELLI that the Products conform to the terms and conditions of this Agreement. Any inspection – whose scope shall be clearly communicated by MARELLI and agreed between the Parties – or testing by MARELLI shall not relieve Supplier of its obligations under this Agreement.
- 5.4 If any Products are rejected, Supplier shall, at MARELLI's request and at no additional cost to MARELLI, promptly deliver replacement Products conforming to the Specifications and delivery instructions.

#### **Article 6. Packaging, Marking and Shipping**

- 6.1 All Products shall be properly packaged, labeled, marked and shipped at Supplier's expense in accordance with MARELLI's requirements. Supplier shall deliver the Products in suitable shipping packaging (and according to MARELLI requirements, when specified), in order to prevent damage and quality impairments.
- 6.2 If MARELLI is responsible for arranging transportation, Supplier shall comply with MARELLI's instructions.
- 6.3 Each packaging slip, bill of lading, shipping notice and invoice shall bear MARELLI's applicable part number, Release number, Purchase Order number, date of shipment, quantity shipped, address of MARELLI, forwarding information and any other information requested by MARELLI, including serial numbers, if applicable.
- 6.4 Supplier is responsible for all MARELLI's costs and losses, as reasonably calculated by MARELLI, due to Supplier's failure to comply with any or all of its obligations under this Article 6.
- 6.5 In case the Products are delivered to MARELLI's facility with damaged packaging, MARELLI shall have the right to refuse the shipment and send it back to Supplier, charging every cost.
- 6.6 Products shall be identified with a MARELLI product number. Supplier acknowledges and agrees that such product numbers are part of a complex numerical system designed by MARELLI, and that MARELLI is the sole owner of this numerical system. Supplier shall use this numerical system only for the purposes of the supply of Products to MARELLI and shall immediately stop use at the end of the supply relationship. Supplier shall ensure compliance with this condition by its own subcontractors.

**Article 7. Price, Invoicing, Payment and Set off**

- 7.1 Invoices must be set, issued and managed in compliance with Applicable laws, as well as with operating procedures and rules set forth by MARELLI, according to which, among other things, Supplier shall send invoices exclusively to the accounting service center appointed by MARELLI, unless otherwise directed by MARELLI in writing.
- 7.2 Unless otherwise agreed in writing, Supplier shall invoice MARELLI for the Products after delivery of the Products. The Price shall be Supplier's full compensation for the Products. MARELLI shall have no obligation to make any further payment to Supplier in connection with the Products. No increase in Price shall be accepted by MARELLI without prior written agreement. Invoices shall include all data and supporting documentation requested by MARELLI.
- 7.3 Invoices may be rejected for non-compliance with any of the provisions of this Agreement. MARELLI shall make payment of the Price to Supplier in accordance with the payment conditions established by MARELLI.
- 7.4 MARELLI will pay for the Products in accordance with the payment terms and in the

currency specified in the Purchase Order. Acceptance of the Products shall be a precondition of any payment. If the payment date is not a business day, payment shall be due the next business day thereafter.

In any case, MARELLI shall effect payments following receipt of the relevant invoices, duly filled, as well as receipt of any other documentation required under Applicable Law.

- 7.5 The Parties agree and acknowledge that provisions related to the financial and economic aspects of the Purchase Order and / or Agreement may be revised by MARELLI as a consequence of currency exchange rate variations or other factors that could have unintended economic impacts related to the profitability of the relevant project applicable to Products.
- 7.6 MARELLI, without waiver or limitation of any rights or remedies, shall be entitled from time to time, to deduct from any amounts due or owing by MARELLI to Supplier, any and all amounts owed by Supplier to MARELLI.
- 7.7 All applicable customs and duties, taxes, imposts, fees and other charges including, without limitation, the cost of any certificate of origin imposed on or required for the Products and sale thereof in the country of shipment, shall be borne by Supplier. All corresponding charges including, without limitation, any import charges imposed in the country of destination shall be borne by MARELLI.
- 7.8 Supplier agrees to pursue actively ongoing reduction in the Price and ongoing improvement in the quality of the Products.
- 7.9 MARELLI is hereby authorized by Supplier to proceed full withholding and / or offsetting of the amounts payable by Supplier to MARELLI hereunder, up to the amount of the debt (duly adjusted and updated), directly from the amounts payable by MARELLI to Supplier, especially concerning the supply of Products, in the following events:
- a) For indemnifying the damages caused by Supplier to MARELLI and / or third parties;
  - b) For paying a fine in the event of a contractual breach by Supplier;
  - c) For indemnifying MARELLI in case of total or partial destruction of the Tooling;
  - d) For indemnifying MARELLI should it be compelled to pay, on behalf of Supplier, any amounts, on any grounds, such as, but not limited to: labor duties of Supplier's personnel, judicial convictions, taxes, etc.;
  - e) Other events provided for in this Agreement or law.

## **Article 8. Changes**

- 8.1 Supplier shall supply Products in compliance with the Specifications; any updates or changes to the Products shall be performed according to the timing, methods and economic aspects agreed in writing with MARELLI.
- 8.2 MARELLI may, by notice to Supplier, at any time change any one or more of the following:
- (1) quantity;
  - (2) Specifications; or

- (3) methods of packaging or shipment.
- 8.3 Any change, both of the Products or of the production process, including production site, shall be introduced by Supplier only after prior information and written consent by MARELLI.  
MARELLI shall have the right to stop or cancel Purchase Order, charging Supplier any cost, if delivery shall take place without the above written consent.
- 8.4 Should said changes as stipulated in Article 8.3 above give rise to patentable inventions, Supplier, to the extent permitted by the Applicable Law, shall grant a license to MARELLI free of charge to manufacture, sell and use the improved Products, without prejudice to the rights of MARELLI as stipulated in Article 15 hereunder.

#### **Article 9. Warranties**

- 9.1 Supplier warrants that it has good and merchantable title to the Products and that the Products shall:
- (1) be free from defects in design (to the extent that Supplier has furnished the design), materials, workmanship and performance;
  - (2) be of merchantable quality and fit for the particular purpose for which the Products are sold;
  - (3) comply with all MARELLI Drawings, Acceptance Drawings and Specifications;
  - (4) be free and clear of all liens and encumbrances;
  - (5) comply with all Applicable Laws; and
  - (6) comply with all other warranties implied or provided for by law.
- 9.2 All warranties shall extend to MARELLI for at least the time and mileage limitations of relevant Car Maker warranties.  
It remains understood that each Product shall be, in any case, guaranteed for not less than 48 (forty-eight) months starting from the production date code as written, engraved or reported on each single Product, or in any case as reported by MARELLI Product traceability systems. Should, under any Car Makers' general terms and conditions, MARELLI be requested to apply greater warranty periods, such warranty period shall apply in turn to the Supplier. Supplier shall reimburse MARELLI for all costs (including labor charges, cost of replacement Products, towing, dealer handling charges and other expenses) incurred by MARELLI as a result of Supplier's breach of any warranty. In addition, Supplier shall comply in all respects with the terms and conditions of the Claim Compensation Procedure, which shall constitute an integral part of this Agreement. There are no exclusions, limitations, or disclaimers of warranties other than those that may be expressly recited in this Agreement. The warranties expressed in this Agreement shall be construed as consistent and cumulative with one another and with all other warranties, whether express, implied or statutory.
- 9.3 Supplier shall ensure the Product's quantity compliance to what is provided in Purchase Orders and/or in this Agreement and in the labelling on package. In case of the Product's quantity non-compliance, MARELLI shall have the right to, without prejudice to any rights

or remedies allowed under article 4, request Supplier to immediately provide any missing Products. MARELLI shall have the right to charge Supplier for any expenses (including any extra costs such as expediting costs for emergencies caused by Supplier's errors) and damages due to delayed or missing delivery.

- 9.4 Supplier warrants that it is certified to IATF 16949 by an external certified body.
- 9.5 In case of Product defective and/or not conforming to the Specifications, the MPA, the Quality Specifications and/or the Operating Regulations, MARELLI shall have the right to refuse the Product that have been identified as defective or not conforming and MARELLI reserves the right to return, as well as to request Supplier to replace, the refused Product, at Supplier's expenses, without prejudice to any other right and/or remedy according to these Agreement and/or the Applicable law.
- 9.6 MARELLI reserves the right to verify the Products in accordance with the standards issued by MARELLI from time to time, and demands to Supplier to work in self-certification and to deliver Products (herein after "Direct Acceptance").
- 9.7 Even in case MARELLI conducts verification on in-coming Products, Supplier remains in any case fully responsible for the quality of the Products.
- 9.8 The condition of the Direct Acceptance can be temporarily suspended by MARELLI, because of specific problem or needs. In these cases, unless otherwise directed by MARELLI, as soon as Supplier receives notification of 'Direct Acceptance' suspension, Supplier agrees to commence delivery of the Products with the conformity declaration inside the box, and identify by an external label with "conformity declaration inside". This status is maintained until MARELLI formally notifies the closing of temporary status.
- 9.9 Supplier agrees to ensure that the process capabilities shall satisfy automotive quality requirements to meet the "Zero Defect" target.
- 9.10 Supplier shall plan and perform periodical requalification to guarantee the conformity of the Products to the Specifications.
- 9.11 In case of crisis (e.g. line stops, recall campaigns, recurring quality issues, quality claims, including those from Carmaker), MARELLI may require Supplier to put in place a specific additional control, focused on the critical problem that have not been filtered by Supplier production process: Control Shipping Level 1, Control Shipping Level 2 or Control Shipping Level 3 (CSL1, CSL2, CSL3), being CSL2 and CSL3 applied through external certified body, the costs of which are borne by Supplier.
- 9.12 Supplier shall act, on MARELLI's request, at MARELLI's facility with technical representatives, in order to perform any or all of the following: sorting, return of stock, a preliminary joint analysis.
- 9.13 Supplier is responsible to apply and respect FIFO (First In First Out) and to plan the

Products' production in coherence with MARELLI's demand.

- 9.14 Supplier and MARELLI shall maintain an appropriate data tracking system.
- 9.15 Defective Products detected by MARELLI or received from Carmaker may be returned to Supplier for analysis and root cause understanding.
- 9.16 The standard analysis answer required is based on the 8D report.
- 9.17 Lead Time (in working days) for detected problems and faulty parts analysis is defined according to the FAR Analysis (Failure Analysis Request).
- 9.18 Supplier agrees to provide maximum support and co-operation in the joint analysis for final root cause investigation and understanding.
- 9.19 Supplier, to the extent permitted by the Applicable law, irrevocably waives its right to take exception to warranties or limitation of its action.
- 9.20 If Supplier does not remedy or remediate defects immediately after a request from MARELLI, MARELLI shall be entitled to remove, through third parties, defects at Supplier's expenses.
- 9.21 Costs related to remediating Product defect shall be borne by Supplier, including but not limited to management costs and problem analysis, transportation costs, processing, labor costs, material scrap or rework in the process of selection, line stoppage (MARELLI or Carmaker), shipping the material to analyze, audit at Supplier facilities, materials and costs for inspections or audits.
- 9.22 The Parties agree that if MARELLI would contest, for any cause or reason the Products supplied by Supplier, MARELLI to the extent permitted by the Applicable law may suspend the relevant payments until the dispute has been resolved to the satisfaction of MARELLI.
- 9.23 Payment of invoices does not constitute MARELLI'S acceptance of the Products; MARELLI shall have the right to contest supplies and charge Supplier the payment and all damages, without exclusions.

#### **Article 10. Quality Assurance**

Supplier shall manufacture the Products in accordance with all of MARELLI's quality procedures for its suppliers. In addition, Supplier shall continuously monitor the Products and promptly report to MARELLI any Products that do not comply with the Specifications.

#### **Article 11. Recall and Reimbursement**

- 11.1 Supplier shall, to the extent attributable to Supplier, indemnify and hold MARELLI harmless against damages, costs and expenses incurred by MARELLI (including costs for

notification, replacement Products, labor, penalties, fines, and buy backs) as a result of any recall, service campaign or similar program initiated by MARELLI, or the manufacturer of vehicles equipped with the Products at their own discretion, required for compliance with any Applicable Law.

- 11.2 If, at any time, Carmakers, third parties or Japanese or foreign or supranational authorities make a claim against MARELLI for non-compliance with regulatory standards concerning safety, health, environment and/or manufacturing and/or homologation, etc. due to alleged defects, non-compliance with regulatory standards or rules, non reliability or lack of safety of the Products, Supplier agrees to indemnify and hold MARELLI harmless from any claim and/or fine by the competent authorities and/or any damages or expenses pursued by a third party, without prejudice to Supplier's own responsibilities towards the damaged third party and the authorities, where applicable.

## **Article 12. Indemnification and Insurance**

- 12.1 In addition to what is specified elsewhere in this Agreement, Supplier shall indemnify and hold harmless MARELLI, its Affiliates and their customers, in full against all loss, liability, damages, costs and all expenses, including attorney fees and expert fees, arising directly or indirectly out of Supplier's performance of work hereunder or the use or sale or importation/exportation of any Products, including claims, actions or lawsuits alleging:

- (1) personal injury, property damage or economic damage;
- (2) any design, manufacturing or warning defect relating to any Product;
- (3) any violation by Supplier of any law, rule or regulation applicable to Supplier or Supplier's business, facilities or operations;
- (4) any act or omission of Supplier or its employees, agents or sub-contractors designing, manufacturing, supplying or delivering the Products, including any injury, loss or damage to persons caused or contributed to by any of their negligence or by faulty design, workmanship or materials; or
- (5) any other claims resulting from the acts or omissions of Supplier or its employees, agents or sub-contractors.

- 12.2 Upon request from MARELLI, Supplier shall, at its sole expense, provide MARELLI with reasonable access to documents, records and witnesses in connection with MARELLI's defense and resolution of any claim, action or lawsuit described in Article 12.1.

- 12.3 MARELLI may, in its sole discretion, require Supplier to defend and resolve any claim, action or lawsuit described in Article 12.1. In the event that MARELLI so requires, Supplier shall absorb all loss, liability, damages, costs and all expenses, including attorney fees and expert fees, in connection with such defense.

- 12.4 The Supplier's liability to MARELLI, for the responsibilities, guaranties and indemnification provided in this Agreement will be as broad and unrestricted as possible, with no limitation of values.

- 12.5 Supplier shall provide at its own expenses, from leading and reputable insurance



companies, and continuously maintain along with the supply relation under this Agreement, adequate insurance policies covering any of and all Supplier's liabilities related but not limited to personal injury, death, or property damage in connection with the supply of the Products, and shall maintain an adequate product liability insurance for the purpose of covering any product liability risks, including pure financial loss, and any cost related with services and/or recall campaigns. Tooling in which MARELLI has an insurable interest, in care custody and control of the Supplier shall be insured on a replacement cost value and 'all risks' basis. MARELLI shall be named on property as 'loss payee' and on the liability policies as 'Additional Insured'. Supplier's policy shall be primary and not contributory and, MARELLI insurance policies shall be in excess of Supplier's insurance. Upon renewal and/or any policy change and in any case on a yearly basis, Supplier shall submit to MARELLI the insurance certificate as a proof of coverage issued by the Insurance company. The existence of such insurance policies will not release nor limit the Supplier from any of its obligations or liabilities assumed under this Agreement.

### **Article 13. Right of Access to Supplier's Claims' Information**

At MARELLI's request, Supplier shall promptly provide access to its records of warranty or product liability claims relating to the Products. MARELLI has the right to review and copy such records, and to require Supplier, at Supplier's cost, to prepare and provide reports or analyses of the quality, reliability, performance, or safety of the Products, and/or complaints, actions or claims relating to the Products. Supplier shall retain such records, reports and analyses as required by the Applicable Laws or for at least five (5) years, whichever is longer.

### **Article 14. Handling of Drawings**

- 14.1 Supplier shall furnish MARELLI with the Acceptance Drawings. Notwithstanding the provisions of Article 22, MARELLI may copy, prepare derivative works and disclose the Acceptance Drawings to any third party.
- 14.2 Supplier shall furnish MARELLI with specifications, concept sheets, CAD data, information and other data Supplier acquires or develops in the course of Supplier's activities under this Agreement as well as all other information and data that MARELLI deems necessary to understand the Products covered by this Agreement and their manufacture (collectively the "Technical Information"). As to any Technical Information that is Confidential Information (as defined in Article 22), MARELLI shall not copy and disclose such Technical Information to any third party without the prior consent of Supplier, except to the limited extent permitted under Article 22.

### **Article 15. Intellectual Property Rights**

- 15.1 Each Party and/or its Affiliates will retain its rights in the Intellectual Property Rights that it acquired, generated or created prior to starting the Development Work.
- 15.2 Supplier shall grant and hereby grants MARELLI and its Affiliates a perpetual, fully paid-up, royalty-free, non-exclusive, world-wide irrevocable license to all Supplier's Intellectual Property Rights subsisting or embodied in or used in connection with the Acceptance Drawings except for Background Patents of Supplier, with a right to grant sub-

licenses to others, to make, have made, use, offer to sell, sell, repair, reconstruct or rebuild, and have repaired, reconstructed or rebuilt, products including the Products and products similar or identical to the Products.

- 15.3 Unless otherwise agreed in advance by the Parties and subject to the Supplier's Intellectual Property Rights communicated in advance to MARELLI as described above in Article 15.2, when, in connection with Product's research, design, testing or development, Supplier performs inventions, whether patentable or not, Supplier shall give notice to MARELLI and, upon MARELLI's request, shall provide any and all information and documents necessary or useful for the Product's implementation.
- 15.4 If requested by MARELLI, Supplier shall grant MARELLI or any of its Affiliates a non-exclusive license with a right to grant sub-licenses to others to Supplier's Intellectual Property Rights subsisting or embodied in or used in connection with the Products, other than those licensed by Supplier to MARELLI and its Affiliates pursuant to Article 15.2, on terms to be agreed by the Parties in writing
- 15.5 If Supplier makes or creates an invention, patentable discovery, improvement or process based on the technical data, information, proposals or opinions provided by MARELLI, Supplier shall forthwith notify MARELLI thereof and the Parties shall discuss in good faith and agree on the ownership of the Intellectual Property Rights subsisting or embodied therein.
- 15.6 If research, design, testing or development are carried out by Supplier for specific assignment to MARELLI, the invention or its Intellectual Property Rights, designs and technical results shall be exclusively owned by MARELLI.
- 15.7 Supplier represents and warrants that the Product and the relevant documentation shall not infringe any patent, copyright and/or other intellectual or industrial property right of third parties and that no action for infringement of such rights is pending or threatens to be brought before any court in connection with the Product.
- 15.8 In case the Product is a software or a component/module with a software embedded, Supplier shall provide to MARELLI a complete bill of material (also known as BOM) including the list of any free and open source software (also known as "FOSS") included in the Product. In any case Supplier warrants that it shall comply with the MARELLI FOSS policy (details of which may vary from Product to Product, as specified on a need basis).
- 15.9 Supplier, where authorized by MARELLI in writing, shall place MARELLI's trademark, or others owned by MARELLI, on Products and their packages, ("Trademark"), in accordance with MARELLI's instructions and standards, unless otherwise the Parties have an agreement on the labelling.
- 15.10 The use of any Trademark, alone or in combination with Supplier's trademark shall in no event mean that Supplier is granted any other license to use Trademarks.

- 15.11 Supplier shall immediately stop using Trademarks upon MARELLI's request, and in any case, after the last delivery of Products.

**Article 16. Infringement**

- 16.1 Supplier shall defend, indemnify and hold harmless MARELLI, its Affiliates and their customers, in full against all loss, liability, damages, costs and all expenses, including attorney fees and expert fees, arising directly or indirectly out of any claims, actions or lawsuits, alleging infringement of any Intellectual Property Rights in connection with the Products, alone or in combination with any other parts or components, or their manufacture.
- 16.2 In the event that Supplier is involved in a dispute with a third party in connection with Intellectual Property Rights relating to the Products, or Supplier believes that there is a likelihood that such a dispute may occur, Supplier shall immediately notify MARELLI, and shall furnish all information in its possession or under its control relating to such dispute.
- 16.3 Notwithstanding the provisions of Article 16.1, MARELLI may, at its sole discretion, elect to control the defense and resolution of any claim, action or lawsuit described in Article 16.1. In the event MARELLI so elects, Supplier shall, upon request from MARELLI, provide MARELLI with reasonable access to documents, records and witnesses in connection with such defense at Supplier's sole expense, and such undertaking of defense by MARELLI shall not relieve Supplier of its indemnification obligation under Article 16.1.

**Article 17. MARELLI Property, Title and Risk**

- 17.1 Unless otherwise agreed in writing between the Parties, the transfer of ownership and the risk of loss shall take place upon delivery of the Products at MARELLI plant or at the destination otherwise agreed, regardless of payment. In case the Parties agree for supplies in consignment stock, the transfer of ownership and the risk of loss shall take place at the time of the withdrawal of the Products from the warehouse.
- 17.2 All MARELLI Drawings, Intellectual Property Rights owned by MARELLI and Confidential Information supplied to Supplier by MARELLI shall remain the property of MARELLI, and Supplier shall use such property only for the purpose of fulfilling its obligations under this Agreement.
- 17.3 All supplies, materials or other items paid for or reimbursed by MARELLI to perform Supplier's obligations hereunder (collectively "MARELLI Property") shall remain the property of MARELLI. Supplier shall use the MARELLI Property only in connection with this Agreement, and shall not use the MARELLI Property in any manner whatsoever for the benefit of any other customer or third party without MARELLI's prior written consent. Supplier shall, immediately upon MARELLI's request, deliver the MARELLI Property to MARELLI or its nominee in accordance with MARELLI's instructions. The MARELLI Property shall be marked as the property of MARELLI by Supplier, shall not be commingled with the property of Supplier or any third person, and shall not be moved from

Supplier's premises without MARELLI's prior written approval.

**Article 18. Tooling**

- 18.1 Supplier shall maintain the Tooling in good condition so that the manufacture of the Products is not interrupted.
- 18.2 Supplier shall only use the Vendor Tooling for manufacturing the Products for MARELLI. Supplier shall, immediately upon MARELLI's request, deliver the Vendor Tooling to MARELLI or its nominee in accordance with MARELLI's instructions. All Vendor Tooling shall be marked as the property of MARELLI by Supplier, shall not be commingled with the property of Supplier or any third person, and shall not be moved from Supplier's premises (except for repair or modification) without MARELLI's prior written approval. Supplier shall not modify, lease, transfer or dispose of any Vendor Tooling unless Supplier obtains MARELLI's prior written consent.
- 18.3 All Tooling owned by MARELLI and made available to Supplier for Product's manufacturing shall be labeled with a registration number as communicated to MARELLI. Moreover, such number shall be indicated in Supplier's statutory books as MARELLI's exclusive property.
- 18.4 Supplier shall use MARELLI's Tooling owned by MARELLI based on a free loan agreement between the Parties and a specific Tooling loan agreement shall be signed by and between the Parties in accordance with the MARELLI standard template.
- 18.5 This Agreement and/or the Tooling loan agreement, mentioned before, may be rightfully terminated, irrespective of any previous notice, whether judicial or extrajudicial notification or claim, and without being payable any compensation to the other party, in case of:
  - a) Abandonment of the Tooling or improper conservation thereof by Supplier;
  - b) Breach of any of the terms herein by either party, and also, by acts that implicate in breach of trust by Supplier;
  - c) Suspension or termination of this Agreement for any reason, or of the supply of Products;
  - d) Use, by Supplier, of the Tooling for any other purpose than the shipping of the products to MARELLI;
  - e) Dissolution, liquidation, application for judicial recovery, order of bankruptcy or verification of insolvency status of any party.
- 18.6 Supplier shall use MARELLI's Tooling owned by MARELLI exclusively for manufacturing the Products. It is expressly forbidden any other use unless otherwise authorized in writing by MARELLI.
- 18.7 In case of breach by Supplier of the above obligation as stipulated in Article 18.6, MARELLI shall have the right to charge Supplier any damage directly or indirectly resulting from such improper use.
- 18.8 Any Tooling owned by MARELLI shall be returned to MARELLI upon a simple request

of MARELLI, at any time for any reason or no reason at all.

- 18.9 Supplier shall perform routine maintenance and shall not disassemble or modify the Tooling for any reason, except for performing actions related to maintaining and/or improving the process/Product, subject to prior written authorization of MARELLI.
- 18.10 Supplier shall bear the risk of loss and damage to Tooling owned by MARELLI.
- 18.11 All Tooling shall at all times be properly kept and maintained by Supplier, at its expense and shall not be moved from Supplier's premises without MARELLI's prior written approval.
- 18.12 Supplier shall not, without prior written approval, transfer the Tooling to third parties.
- 18.13 MARELLI shall have the right to enter Supplier's premises at all reasonable time to inspect such property and relevant records.
- 18.14 It is understood that in any event of termination, also in case of early termination, of this Agreement, Supplier shall return at its own risk and expense Tooling owned by MARELLI up to MARELLI's premises.
- 18.15 Upon termination or expiration of the supply of the Products, for any reason, MARELLI shall have an option to purchase any Tooling owned by Supplier (which in turn shall have the obligation to sell and deliver Tooling).
- 18.16 In case, at the moment of exercising the afore mentioned option as set out in Article 18.15, MARELLI has already paid to Supplier a portion of the price of Tooling (e.g. by means of specific markup above the unit price of the Products), the Supplier shall immediately deliver the Tooling upon payment by MARELLI of the residual portion of Tooling price.
- 18.17 Supplier shall not allow lien or any other encumbrances on the Tooling and the Products. In case of occurrence or likely occurrence of judicial seizure, judicial constriction or administrative retaining measure on the Tooling or Products, Supplier shall inform immediately MARELLI of thereof.
- 18.18 Supplier have the obligation to cause the Tooling to be handled only by duly licensed and qualified professionals, according to the minimum requirements of the Occupational Safety Standards, which bears the total, sole and exclusive responsibility, any eventual damages caused, including to third parties, for breach of this obligation.

#### **Article 19. Service Parts**

After the termination of the manufacturing of the Products for the mass production, Supplier shall continue to supply Products for the aftermarket spare parts as required by MARELLI ("Service Parts"), for at least 15 (fifteen) years from the date of last manufacturing date for mass production by the manufacture of each model of vehicle for which the Products were supplied. Supply prices shall be agreed to by taking into account the last price paid for the Products supplied for mass

production for first equipment, forecasted volumes and supply lots requested by MARELLI. The Service Parts shall be supplied at full production assembly level and/or at sub-component level, as required by MARELLI. The Service Parts shall meet all Specifications provided by MARELLI.

**Article 20. Sales to Third Party and Supplied Goods**

20.1 Supplier shall not, without MARELLI's prior written consent which shall not be unreasonably withheld or delayed, manufacture for the benefit of or supply to a third party any goods that:

- (1) are based in whole or in part upon the MARELLI Drawings;
- (2) use any Intellectual Property Right of MARELLI or any of its Affiliates; or
- (3) are based in whole or in part upon the Acceptance Drawings, or any derivative or copy thereof, except for any products or parts that Supplier independently developed.

20.2 In any of the following cases, MARELLI may, after consultation with Supplier, supply it with raw materials, parts, packing materials or other materials ("Supplied Goods") necessary for manufacturing, packaging or transportation of the Products with or without charge:

- (i) If MARELLI judges necessary to maintain the quality and/or function of the Products, or to meet any standard of the Products designated by MARELLI; or
- (ii) If there is any other justifiable cause.

The Supplied Goods to be supplied to Supplier pursuant to this Article shall have the following two (2) categories:

- (i) Supplied Goods which are manufactured by or purchased by MARELLI and physically delivered from MARELLI to Supplier ("MARELLI Supplied Goods"); and/or
- (ii) Supplied Goods which are purchased by MARELLI from a third party supplier designated by MARELLI ("Source Supplier") but are physically delivered directly from the Source Supplier to Supplier without via MARELLI ("Direct Supplied Goods").

20.3 In case the Supplied Goods are supplied to Supplier, MARELLI shall, no later than the release of a design note for the Products in principle, notify Supplier of the part number, type and other information of the Supplied Goods. MARELLI and Supplier shall discuss with each other in advance to determine the quantity, delivery date and other conditions with respect to such Supplied Goods; provided, however, that the delivery date, place of delivery and other conditions with respect to the Direct Supplied Goods shall be discussed and determined by Supplier and each Source Supplier.

**Article 21. Subcontracting**

Supplier may delegate or subcontract the manufacture of the Products to third parties ("Subcontractors"); provided that Supplier shall obtain the prior written consent of MARELLI in

the event of delegation or subcontracting of all or a substantial part of the manufacture of the Products to a third party. Supplier shall ensure that all Subcontractors comply with and abide by the terms and conditions of this Agreement, and in no event shall Supplier be released from any of its obligations under this Agreement.

**Article 22. Confidentiality**

22.1 The Parties recognize that each of them (“Receiving Party”) may, during the course of this Agreement, gain knowledge of, have access to, or have otherwise disclosed to it certain nonpublic information that is proprietary to the other Party, its Affiliates or their customers (“Disclosing Party”) and which is of a secret or confidential nature (“Confidential Information”). The following information shall be considered Confidential Information:

- (1) information concerning the business operations of either Party, its Affiliate or their customers, (including product planning, manufacturing, advertising programs, sales promotions, complaints, budgets, and forecasts); and
- (2) inventions, designs, and research and development programs.

22.2 The Receiving Party shall not disclose, publish, release, transfer or otherwise make available Confidential Information of the Disclosing Party in any form to, or for the use or benefit of, any third party without the Disclosing Party’s prior written consent.

22.3 The obligations of confidentiality shall not apply if:

- (1) the Confidential Information is, or becomes (other than through a breach of this Agreement) generally known to the public;
- (2) the Confidential Information was in the Receiving Party’s possession prior to its disclosure by the Disclosing Party, as demonstrated by the Receiving Party’s written records;
- (3) the Confidential Information is developed independently by the Receiving Party without reliance on information or materials provided by the Disclosing Party, as demonstrated by the Receiving Party’s written records;
- (4) the Confidential Information was rightfully received by the Receiving Party without obligation of confidentiality from a third party, as demonstrated by the Receiving Party’s written records; or
- (5) disclosure is required by law; provided that the Receiving Party gives the Disclosing Party prompt notice of the request for disclosure, cooperates with the Disclosing Party in obtaining a protective order or other remedy, and discloses only that portion of the Confidential Information which it is legally compelled to disclose.

22.4 Notwithstanding the provisions of Article 22.2:

- (1) MARELLI may disclose Supplier's Confidential Information not only to MARELLI Affiliates but also to entities with which MARELLI has a publicly announced significant business relationship which may be referred to as an "alliance partner" or "strategic alliance" or some similarly described relationship; provided that (i) MARELLI shall ensure that such Affiliates and entities are aware of and undertake to maintain the secret or confidential nature of Supplier's Confidential Information, and further that (ii) MARELLI's permitted disclosure shall be limited to MARELLI Affiliates if such Supplier's Confidential Information is also Technical Information; and
- (2) Supplier may disclose MARELLI's Confidential Information to any of the Subcontractors defined in Article 21 to the extent necessary for performing Supplier's obligations under this Agreement; provided that Supplier shall ensure that such Subcontractors are aware of and undertake to maintain the secret or confidential nature of MARELLI's Confidential Information.

22.5 Each Party acknowledges that the disclosure of the other Party's Confidential Information may result in irreparable injury to that Party and that such Party will be entitled to seek injunctive relief in addition to any other legal or equitable remedies that may be available.

### **Article 23. Compliance with Laws**

- 23.1 Supplier shall comply with all Applicable Laws of the countries and regions in which they operate, including, but not limited to, Labor Standards Act, Act on Securing, etc. of Equal Opportunity and Treatment between Men and Women in Employment, Industrial Safety and Health Act, Act for Securing the Proper Operation of Worker Dispatching Undertakings and Improved Working Conditions for Dispatched Workers, Act on Prohibition of Private Monopolization and Maintenance of Fair Trade, Act against Delay in Payment of Subcontract Proceeds, Etc. to Subcontractors, Unfair Competition Prevention Act, The Basic Environment Law, Air Pollution Control Law, Water Pollution Control Law, Consumer Basic Act, Soil Contamination Countermeasures Act, Act on the Protection of Personal Information, and Foreign Exchange and Foreign Trade Act.
- 23.2 Supplier shall establish and maintain an effective and appropriate internal control structure and system in order to strictly comply with all Applicable Laws as described in Article 23.1.
- 23.3 Supplier shall use its reasonable efforts to ensure that its suppliers relating to the Products comply with the provisions of this Article 23.
- 23.4 Supplier shall notify MARELLI immediately upon discovery of any apparent or threatened breach of the provisions of this Article 23. In this case, Supplier shall investigate and take remedial actions against such breach immediately. Concurrently, Supplier shall report to MARELLI such investigation results and remedial actions.
- 23.5 If Supplier is in breach of any of the provisions of this Article 23, MARELLI may, at its



- sole discretion, elect (i) not to invite Supplier to participate in and/or (ii) to discontinue Supplier's participation in a supplier selection process for any new parts. For the avoidance of doubt, the foregoing sentence shall not be construed as limiting or otherwise affecting MARELLI's right to take any other actions under this Agreement or under this Article 23.
- 23.6 Supplier shall establish and continuously develop a quality system in compliance with ISO 14001. MARELLI may suggest that Supplier comply with OHSAS 18001 or any rules which are equivalent of or similar to the same including ISO 45001.
- 23.7 The Supplier declares that it shall supply the Product in compliance with the ISO 26262 (last edition), if required. If the Product is subject to the application of the ISO 26262, the Supplier, according to the Automotive Safety Integrity Level (ASIL) requirements as specified for the Products' component(s), must produce all the evidences necessary to demonstrate the compliance with the ISO 26262 prescriptions (including reliability analysis data for all the ASIL level).  
The Supplier shall be liable vis-à-vis MARELLI for any ISO 26262 non-compliance.
- 23.8 The Development Interface Agreement (DIA), that defines the responsibilities for activities, the evidence and work products to be exchanged by each Party, in accordance with ISO 26262, shall be defined on a Product basis.
- 23.9 MARELLI is entitled to perform preventive audits in the Supplier's plants and design centres in order to verify the Supplier's ISO 26262 compliance capability. MARELLI may, at its own discretion, request that Supplier be audited by a third party provider, at Supplier expenses, appointed by the Supplier and finally approved by MARELLI; in such case Supplier will provide to MARELLI the results of such third party audit. MARELLI will be entitled to perform/have performed by third parties assessment sessions in order to verify the fulfilment of Supplier's preventive audits.
- 23.10 Supplier undertakes to register all information related to composition of Products in the Material Data System "IMDS".
- 23.11 Where applicable, Supplier shall comply with the legislation on registration, evaluation, authorization and restriction of chemicals, as well as the legislation on classification, labelling and packaging of substances and mixtures, with particular reference to Regulation (EC) No 1907/2006 ("REACH Regulation") and Regulation (EC) No 1272/2008 ("CLP regulation") and any subsequent amendments and additions and with all applicable regulations, standards and best practices in environmental protection matters, including those related to emissions and heavy materials.
- 23.12 In addition, Supplier shall comply with the ONU principles, in particular those related to international human rights protection, to collective bargaining, to forced and child labor abolition, to the elimination of discriminatory policies, environmental responsibility and the prevention of corruption.
- 23.13 In the event that a Product is subject to government regulations, national and/or foreign

(regarding safety, pollution, etc.), Supplier is required to prepare a specific documentation concerning the type approval and supply chain, that proves, among other things, in what way and with what results have been tested and certified the characteristics concerned. This documentation must be kept by Supplier and shall be given to MARELLI upon request.

- 23.14 If any Product, or component thereof, contains minerals which originated in the Democratic Republic of Congo or its surrounding Countries or which is anyway related to the Conflict Mineral Legislation (“Conflict Minerals”) then Supplier shall immediately notify MARELLI in writing of such Conflict Minerals and provide all information necessary in order to comply with the requirements of the relevant national/international regulations in force concerning Conflict Minerals. In any case, Supplier shall be required to send to MARELLI a report (“Report”), on an annual basis, specifying the usage of Conflict Mineral. In the absence of any receipt of annual Report, MARELLI shall have the right to exclude Supplier from the list of eligible suppliers.
- 23.15 MARELLI reserves the right to conduct audits (directly or also through the assistance of third parties) on Supplier facilities, in order to verify the accomplishment and implementation of proper level of information security standards according to ISO27001. Supplier may also be requested to fill an Information Security Self-Assessment based on information security standard ISO27001.
- 23.16 Supplier shall comply with all applicable laws and regulations of the countries and regions in which they operate, including, but not limited to, U.S. Foreign Corrupt Practices Act and U.K. Bribery Act.
- 23.17 Supplier is required to impose similar obligations to its subcontractors, where specifically authorized as per article 21 herein.

#### **Article 24. Advertising**

Supplier shall not in any way advertise the fact that Supplier has entered into this Agreement with MARELLI without MARELLI’s prior written consent. In addition, Supplier shall not use any trademark, trade name, trade dress, logo or other marks in which MARELLI or any MARELLI Affiliate has an interest except in such manner as MARELLI may direct in writing in advance.

#### **Article 25. Facility Inspection, Export control and Customs**

- 25.1 MARELLI shall have the right to inspect Supplier’s facilities and operations at any time during Supplier’s business hours and upon reasonable notice for purposes of verifying Supplier’s compliance with its obligations under this Agreement, including those relating to Supplier’s manufacturing process and quality assurance systems.
- 25.2 Supplier shall comply with applicable laws and regulations regarding import/export and customs. Supplier shall present relevant customs with a specific document attesting the origin of goods at the moment of importing the Product, in order to claim the reduced duty or zero duty, according to the applicable laws.
- 25.3 In relation to the above Article 25.2, Supplier shall, at least in the offers, order

confirmations and invoices, provide the following information about the Products:

- export list number;
- ECCN (Export Control Classification Number) for the U.S. market (including technology and software) according to the U.S. Export Administration Regulations (EAR);
- country of origin of the Products and their components, including technology and software;
- possible transport of Products within the territory of the U.S., any manufacturing or storage of Products in the U.S. and possible manufacturing of the Products with U.S. technology;
- custom tariffs of Products;
- contact person within the company, which is available on request to provide further information.

Upon request, Supplier shall provide in writing any further details on foreign trade related to the Products and shall inform MARELLI of any change.

**Article 26. Change of Circumstances and Competitiveness**

26.1 If any of the following circumstances occur or are likely to occur in relation to Supplier, Supplier shall immediately inform MARELLI in writing:

- (1) the transfer of all or any substantial part of its business or assets;
- (2) substantial change of control;
- (3) merger, amalgamation or other corporate re-organization;
- (4) alteration of its trade name or official name, executive management, location of premises or other substantial organization changes; or
- (5) insolvency, bankruptcy, being placed into administration, receivership or liquidation, commencement of proceedings to be wound up, entering into any voluntary arrangement with its creditors, or the happening of any similar event according to the laws of its domicile.

26.2 Supplier undertakes to guarantee, during the entire duration of the Agreement, the competitiveness of the Product, in terms of technological level, price, quality, reliability, technical and service level, with respect to similar products from competitors on the market that meet MARELLI's requirements.

26.3 If a similar product is offered at a more advantageous price, guaranteeing at the same time an equal or better technological level, quality, reliability, technical and service level, MARELLI may give Supplier proper information to the maximum possible extent, provided no confidentiality restraints, and allow it a proper period of time to submit a competitiveness restoration plan. MARELLI agrees to verify the plan and provide guidance to Supplier for any possible improvements, as well as to support in the implementation,

whenever possible.

- 26.4 The submission of a convincing competitiveness restoration plan, as well as the implementation within the agreed timeframe, are essential contractual obligations of the Supplier.

**Article 27. Term**

This Agreement shall commence on the Effective Date and, unless earlier terminated as provided herein, shall continue in force for an initial period of three (3) years. Unless either Party notifies the other Party in writing at least six (6) months prior to the last day of the initial term or any extension thereof, the term of this Agreement shall be automatically extended for a further period of one (1) year.

**Article 28. Termination and Discontinuation**

- 28.1 Notwithstanding the provisions of Article 27, either Party may terminate this Agreement effective immediately by notice in writing without liability to the other if the other is in material breach of this Agreement and, if such breach is remediable, such breach has not been remedied within thirty (30) days of written notice.

- 28.2 Notwithstanding the provisions of Article 27, MARELLI may terminate this Agreement without liability with immediate effect by serving a written notice on Supplier in the event that Supplier:

- (1) becomes insolvent or bankrupt, is placed into administration, receivership or liquidation, commences proceedings to be wound up, enters into any voluntary arrangement with its creditors, or on the happening of any similar event according to the laws of its domicile; or
- (2) undergoes any change in its ownership or disposes of all or a substantial part of its business or assets (other than for the purposes of a legitimate re-organization) without MARELLI's prior written consent, which consent shall not be unreasonably withheld or delayed (provided that MARELLI may withhold such consent if it does not receive adequate evidence of Supplier's ability to continue to perform its obligations in accordance with the terms of this Agreement).

- 28.3 In the event of expiration or termination of this Agreement for any reason, unless otherwise directed by MARELLI, the following shall apply:

- (1) If any Purchase Order is pending at the time of the termination or expiration of this Agreement, MARELLI shall have the right, at its sole discretion, to cancel any such Purchase Order.
- (2) Supplier shall take all action necessary to protect property in Supplier's possession in which MARELLI has an interest. In this case, MARELLI shall reimburse Supplier for reasonable costs (determined at MARELLI's sole

discretion) incurred in connection with such protective action.

- (3) Supplier shall immediately deliver, at Supplier's expense, the MARELLI Property, MARELLI Drawings, Acceptance Drawings and Vendor Tooling to MARELLI or its nominee in accordance with MARELLI's instructions.
  - (4) If Supplier possesses completed Products, Products in the process of manufacture, or Tooling (excluding Vendor Tooling) used exclusively to manufacture the Products, MARELLI shall have the option to purchase the same at reasonable prices as shall be agreed between the Parties.
  - (5) Supplier shall immediately return all Confidential Information of MARELLI, or destroy it and certify such destruction within seven (7) days of the termination.
- 28.4 In addition, in the event of expiration or termination of this Agreement for any reason, the Parties shall meet and discuss in good faith any matters not described above or further details. The principal objective of such meeting will be to discuss how to minimize any disruption to MARELLI's business.
- 28.5 In case Supplier has planned or envisages to suspend the supply of the Products or to discontinue or close down, also temporarily, the manufacturing of one or more Products, it shall immediately provide written notice of such decision to MARELLI (hereinafter "Product Termination Notification" or "PTN"), specifying the component and/or the version to be discontinued and the expected date of such discontinuation.
- 28.6 It is being understood, in such suspension or discontinuation of the supply of the Products, that MARELLI shall have the right to require Supplier to continue to supply such Products, at the terms and conditions provided for by the Agreement or by the Firm Orders for the following period, unless otherwise agreed between Supplier and MARELLI:
- i) for off-the-shelf Products: twelve (12) months from the date the discontinuation has become effective;
  - ii) for customized Products: eighteen (18) months from the date the discontinuation has become effective.
- 28.7 All industrial alternative solutions, including management of deliveries according to MARELLI's manufacturing requirements, aiming to minimize impact on MARELLI's stock level and to avoid obsolescence risks of MARELLI's inventory, shall be carried out by Supplier according to "Last Time Buy" instructions provided by MARELLI.
- 28.8 Notwithstanding the above, MARELLI reserves the right to request postponing the date of the Supplier's last manufacturing date or to refuse the discontinuation if technically and economically viable solutions are not defined between the Parties.
- 28.9 Supplier shall be available to keep Products in its stock and to deliver them according to

MARELLI demands.

28.10 Supplier shall provide MARELLI with equivalent alternative source of supply. It is understood and agreed that all the costs to implement and validate such new source, plant or Product shall be entirely sustained by the Supplier, including software redesign and validation.

**Article 29. Waiver and Remedies**

No delay or omission by either Party in exercising any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any other breach of such or any other provision. Remedies available to MARELLI or Supplier under this Agreement shall be cumulative and additional to any other or further remedies implied or available at law, in equity or under this Agreement.

**Article 30. Notice**

Any notice, request or demand to be given by MARELLI or any of its Affiliates to Supplier or any of its Affiliates or vice versa under this Agreement or any applicable Purchase Order shall be in writing and delivered to the address specified in this Agreement or, with respect to notices under a Purchase Order, such other address as is specified in the relevant Purchase Order, as such addresses may have been modified by proper notice. If any notice is given (i) by a private delivery service or recognized overnight courier, it shall be deemed to have been given and received when delivered or attempted to be delivered to the address of the party to whom it is addressed, (ii) by e-mail or facsimile transmission, it shall be deemed to have been given and received at the time confirmation of such transmission is received by the sender, (iii) by certified or registered mail, it shall be deemed to have been given and received three (3) days after a certified or registered letter containing such notice, properly addressed, with postage prepaid, is deposited in the mail, and (iv) by any other method, it shall be deemed to have been given and received upon actual receipt thereof regardless of how such delivery was accomplished.

**Article 31. Entire Agreement**

31.1 This Agreement sets forth the entire and only agreement and understanding between the Parties relating to the sale and purchase of the Products and supersedes all negotiations, commitments and writings prior to the date of this Agreement.

31.2 This Agreement may not be modified, supplemented or amended except by a written agreement executed by both Parties.

31.3 In the event of any inconsistencies between the terms of this Agreement and the terms contained in any other document, instrument, agreement, Purchase Order related to the supply of the Products by Supplier to MARELLI, the terms of this Agreement shall prevail.

**Article 32. Assignment**

The rights and obligations under this Agreement or this Agreement itself, either in whole or in part, shall not be assigned or transferred by either Party without the prior written consent of the other Party. Any assignment or attempted assignment of this Agreement or any part thereof,

whether by voluntary act or operation of law, shall be null and void, unless it is approved in writing by the other Party in advance.

**Article 33. Independence**

This Agreement shall not constitute either Party as the agent or legal representative of the other Party for any purpose whatsoever. Neither Party is granted any express or implied right or authority to assume or to create any obligation or responsibility on behalf of or in the name of the other Party or to bind the same in any manner whatsoever.

**Article 34. Severability**

If any court of competent jurisdiction finds any provision of this Agreement to be unenforceable or invalid in whole or in part, such finding shall not affect the validity of the other provisions of this Agreement or the remainder of the provision in question.

**Article 35. Force Majeure**

- 35.1 Neither Party shall be responsible to the other by reason of failure to perform obligations hereunder to the extent that the failure to perform is caused by an act of God, flood, fire, storm, earthquake, shipwreck, acts of public enemy, or acts or omissions of any sovereign government, branch or agency thereof and other similar events beyond reasonable control of the Party whose performance is prevented or interfered with. The affected Party shall promptly notify the other Party and shall not be responsible for its failure to perform any obligation required under this Agreement as a result of any of the forgoing. The Parties specifically agree that strikes and labor disputes at the Party whose performance is prevented or interfered with shall not be included in the Force Majeure events.
- 35.2 In case a Firm Order cannot be executed on schedule due to force majeure events, delivery terms shall be deemed to be postponed and a new delivery term shall be agreed upon between MARELLI and Supplier in relation to the specific situation (in this respect, it remains understood that the liability of Supplier is never excluded in case of a strike).
- 35.3 The application of the above provision as stipulated in Article 35.2 is conditional upon Supplier having immediately notified MARELLI of the force majeure event, by e-mail confirmed by registered letter, and having taken all the necessary steps to limit the effects thereof.
- 35.4 Force majeure may not be invoked if it arises after expiration of the agreed delivery term.
- 35.5 Subcontractors' delays shall not be considered force majeure events, unless it is proved that said delays are caused by force majeure.
- 35.6 If force majeure causes such a delay in delivery of Products not complying as to prevent compliance with MARELLI's production needs (production interruption), MARELLI shall have the right to purchase Products from third parties.
- 35.7 Should the above measure as stipulated in Article 35.6 – in MARELLI's sole discretion - prove impossible to be put in place or unreasonably expensive, MARELLI shall have the

right to terminate the Agreement with immediate effect. MARELLI's liability is excluded in case of circumstances out of MARELLI's control preventing receipt of deliveries or reducing the need of Products ordered.

35.8 Notwithstanding the foregoing, it is hereby agreed that, MARELLI shall, at its discretion, have the right to, after ten (10) days of the occurrence of force majeure events, cancel the Firm Order effective immediately, through a simple notice to Supplier.

**Article 36. Survival**

Article 9 (Warranties), Article 11 (Recall and Reimbursements), Article 12 (Indemnification and Insurance), Article 13 (Right of Access to Supplier's Claims Information), Article 14.2 (Handling of Drawings), Article 15 (Intellectual Property Rights), Article 16 (Infringement), Article 17 (MARELLI Property, Title and Risk), Article 18 (Tooling), Article 19 (Service Parts), Article 20 (Sales to Third Parties and Supplied Goods), Article 22 (Confidentiality), Article 24 (Advertising), Article 28.4 (Post-Termination Rights), Article 32 (Assignment), Article 37 (Governing Law) and Article 38 (Jurisdiction) shall survive the expiration or termination of this Agreement for any reason whatsoever.

**Article 37. Governing Law**

This Agreement shall be construed and enforced in accordance with the substantive laws of Switzerland.

**Article 38. Jurisdiction**

Any dispute, controversy or claim arising out of, or in relation to, this Agreement, including the validity, invalidity, breach, or termination thereof, shall be resolved by arbitration in accordance with the Swiss Rules of International Arbitration of the Swiss Chambers' Arbitration Institution in force on the date on which the Notice of Arbitration is submitted in accordance with these Rules. The number of arbitrators shall be three. The seat of the arbitration shall be Geneva (Switzerland). The arbitral proceedings shall be conducted in English.

**Article 39. Code of Conduct and Sustainability Guidelines**

39.1 The Supplier is aware of the provisions of the Code of Conduct and the Sustainability Guidelines for suppliers adopted by the MARELLI and downloadable from the web-site, where are set forth the basic principles and the business behaviours that the companies, directly or indirectly, controlled by MARELLI are committed to comply with in their business activities. The Supplier acknowledges that the companies, directly or indirectly, controlled by MARELLI expect their suppliers to carry on their business in accordance with the above-referred principles and behaviors.

39.2 The Supplier shall perform its business activities in accordance with ethical standards and procedures similar to those provided for in the laws of the Country(ies) where it operates (included but not limited to bribery, money-laundering and any case of Corporate Liability), in the Code of Conduct and in the Sustainability Guidelines, aimed to ensure the compliance with proper business behaviors.

39.3 The Supplier is aware that the MARELLI shall not further carry on business relationships



with any supplier which does not comply with the provisions of the laws of the Country(ies) where its business activities are carried out, the Code of Conduct and/or of the Sustainability Guidelines.

39.4 Any breach by the Supplier of the provisions the Code of Conduct and/or the Sustainability Guidelines shall constitute a breach of this Agreement according to Article 28 above.

In Witness Whereof, the Parties have executed this Agreement in duplicate in English by causing these presents to be signed by their duly authorized representatives on the date first above written.

For and on behalf of  
Marelli Holdings Co. Ltd.

For and on behalf of  
(Supplier Name)  
For itself and on behalf of its Affiliates (if any)

\_\_\_\_\_  
Name :  
Title :

\_\_\_\_\_  
Name :  
Title :

## Schedule 1

### CLAIM COMPENSATION PROCEDURE

This Claim Compensation Procedure (“CCP”) is an integral part of the Marelli Purchase Agreement (“MPA”) as is referenced in Article 9.2. MARELLI and Supplier hereby agree to the following terms and conditions regarding compensation related to plant claim and market claim for the Products and any other parts equipped with the Products including parts of MARELLI customers.

#### **Article 1. Purpose**

The Purpose of this CCP is to perform warranty services promptly and securely in compliance with the requests by MARELLI and its customers based upon mutual reliability and recognition by MARELLI and Supplier, and to maintain and enhance the quality of the Products, thereby preventing the recurrence of claim issues.

#### **Article 2. Definition of Warranty Claim**

Claim compensation shall be reimbursement for damages to be borne by the Supplier in accordance with Article 9.2 of the MPA. The issues regarding recall, service campaigns, and similar programs, to which the CCP does not apply, shall be handled in accordance with Article 11 of the MPA.

#### **Article 3. Classification of Claim Compensation**

Claim Compensation shall be classified into plant claim compensation and market claim compensation, of which details are as follows:

##### (1) Plant Claim Compensation

Compensation for any damages or expenses incurred by MARELLI or its customers relating to Article 9.2 of the MPA before the Products are delivered to a third party from manufacturing plants of MARELLI or its customers.

##### (2) Market Claim Compensation

Compensation for any damages or expenses incurred by MARELLI or its customers relating to Article 9.2 of the MPA after the Products are delivered to a third party from manufacturing plants of MARELLI or its customers.

#### **Article 4. Plant Claim Compensation**

In the event that, with respect to Plant Claim Compensation, any damages or expenses have been incurred by MARELLI or that any damages or expenses have been incurred by MARELLI’s customers and MARELLI compensated such damages or expenses, Supplier shall reimburse MARELLI for all of such damages or expenses.

**Article 5. Market Claim Compensation**

In the event that, with respect to Market Claim Compensation, any damages or expenses have been incurred by MARELLI's customers or a third party and MARELLI compensated such damages or expenses, Supplier shall reimburse MARELLI for all of such damages or expenses.

**Article 6. Invoice**

In case MARELLI requires that Supplier make a payment of Claim Compensation, MARELLI shall issue a written document for doing so

**Article 7. Return of the Products that have caused Claim Compensation**

MARELLI may, at SUPPLIER expenses, return the Products that caused Claim Compensation, provided, however, that MARELLI shall not be required to return the Products which have not been returned from MARELLI's customers or a relevant third party for any reason whatsoever.

**Article 8. Objection**

In case Supplier has an objection on the nature, extent or amount of Claim Compensation as required by MARELLI in accordance with Article 6 of the CCP, Supplier shall, without delay, inform MARELLI of its objection with relevant reasons. MARELLI and Supplier shall, in consultation with each other, resolve the objection.

**Article 9. Payment**

Any payment by Supplier of Claim Compensation to MARELLI may be made by offsetting such payment by deducting equal amounts from, if any, payment by MARELLI of purchase prices of the Products.

**Article 10. Countermeasures**

In the event that any flaw or defect in manufacture or design of the Products has been found, MARELLI and Supplier shall promptly, in consultation with each other, consider and take all reasonable possible measures that are effective and adequate to prevent the occurrence of any accident in future and to maintain the reputation of both MARELLI and Supplier.

Schedule 2

FORM OF LETTER OF ACCESSION

For a MARELLI's Affiliate  
[on Affiliate's headed paper]

[Address of mega-supplier's holding company]

Marelli Purchase Agreement

We refer to the Marelli Purchase Agreement ("the Agreement") which was entered into on [.....] between yourselves and [Name of MARELLI legal entity signing the Agreement]. Please note that with reference to Article [.....] of the Agreement, we accede to the Agreement from [today's date].

Please acknowledge receipt of this letter by signing and returning to us the enclosed copy of this letter confirming your acceptance on your behalf and on behalf of all your Affiliates of our accession to the Agreement.

In this letter, except as the context may otherwise require, all words and expressions defined in the Agreement shall have the same meanings when used herein.

This letter shall be governed by, construed and enforced in accordance with the [Laws of Switzerland], without regard to conflict of laws principles.

Yours faithfully.