



Navistar, Inc.  
2701 Navistar Drive  
Lisle, IL 60532 USA

P : 331-332--5000  
W : [www.navistarsupplier.com](http://www.navistarsupplier.com)

## **STANDARD TERMS AND CONDITIONS**

**1. CONTRACT.** For purposes of these Standard Terms and Conditions, the term “Contract” shall mean a Comprehensive Supply Agreement, Warranty Agreement, Standard Terms and Conditions, and Purchase Orders. In the event of a conflict between the documents which constitute the Contract, the documents shall govern in the order they are mentioned above unless otherwise expressly stated in a specific document. No terms or conditions submitted by Supplier apply to a Contract unless accepted in writing by Navistar. Supplier shall be deemed to have accepted the Contract at the earlier of (i) Supplier notifying Navistar of its acceptance or (ii) Supplier beginning performance pursuant to the Contract.

### **PRODUCT**

**2. PRODUCTS.** The term “Production Products” refers to products used only for production and the term “Service Parts” refers to products used only for service. The term “Products” includes Service Parts and Production Products, packaging, and containers, as well as any literature pertaining to such Products.

**3. THIRD PARTY DESIGNEE.** Supplier will also, at Navistar’s sole option, sell Products to Navistar’s subsidiaries, affiliates, third party contractors or any other Navistar-designated party (“Third Party Designee”), under the same terms and conditions as set forth in this Contract. All of Supplier’s representations, warranties, and obligations under this Contract apply to sales to Third Party Designees.

**4. PAYMENT.** Standard payment terms are sixty (60) days from date of receipt of a correct invoice from Supplier, or the date of receipt of the Products by Navistar, whichever is later, unless otherwise agreed to in writing. Navistar neither guarantees nor is responsible for any liabilities incurred by any Third Party Designees under this Contract.

**5. SPECIFICATION CHANGES.** Navistar reserves the right at any time to make changes or modifications to drawings and specifications as to any Products, materials, or work covered by this Contract. The parties will agree upon and equitably adjust any difference in price or time for performance resulting from such changes, and modify the Contract in writing accordingly.

**6. SHIPMENT.** The terms of delivery for all Products sold pursuant to this Contract shall be FCA Supplier’s dock, unless otherwise designated by Navistar. (Incoterms 2010).

Shipments of Products must equal the exact quantity ordered and requested delivery date, unless otherwise agreed to in writing. In the event of an over-shipment, Navistar, at its sole option, may return the over-shipment to Supplier at Supplier’s expense, including Navistar’s administration fee for handling the over-shipment.

Supplier agrees to provide Navistar a return material authorization for over-shipments, and Supplier will not charge any restocking fees. Supplier agrees to comply with all requirements detailed in: the D-13 Supplier Packing and Shipping Standard; Navistar’s Quick Receive Guidelines that detail packing, packaging, labeling and shipping requirements; and Navistar’s Supplier Guidelines found at [www.navistarsupplier.com](http://www.navistarsupplier.com). If Supplier at any time has reason to believe that deliveries will not be made as scheduled, Supplier must immediately notify Navistar in writing of the cause of the anticipated delay.

Supplier agrees to comply with all requirements listed in the PR-38 Customs Invoicing Instructions that details customs, import and export instructions and is found at [www.navistarsupplier.com](http://www.navistarsupplier.com). Supplier will provide Navistar with such additional information that Navistar reasonably may request, included but not limited to any information about the Products and/or Supplier that Navistar may need to provide authorities for the import or export of the Products.

**7. LEAD-TIME.** Supplier will meet a lead-time of no more than four weeks for Products unless otherwise agreed to in writing. Supplier will register at Navistar's iSupplier Portal found at [www.navistarsupplier.com](http://www.navistarsupplier.com) and agree to meet the lead time requirements for Service Parts.

**8. VOLUMES.** Supplier and Navistar agree that Navistar's forecasted volumes are based on past usage and projected market forecasts. The Parties agree that no minimum purchase quantities are implied by any term of this Agreement, and no penalties or liabilities shall be imposed on Navistar for volumes of Products actually ordered by Navistar below those quantities forecasted.

**9. PRICING AND INVOICING.** The price for Products is stated in the Purchase Order and will be a fixed price. Duties, levies, fees and taxes are according to the Incoterms set forth in Section 6 of this Contract, unless otherwise agreed to in writing. All agreed upon price adjustments must also be reflected in the export invoices prepared for Customs purposes, if applicable.

Supplier will provide a cost breakdown (including but not limited to labor, material, and overhead) and the price of all the basic components of any Product, which in the aggregate will not exceed the price of the Product it together constitutes.

Supplier and Navistar will jointly pursue cost reduction opportunities for the duration of this Contract and will reflect the achievement of such opportunities in price reductions to Navistar.

Without limiting Navistar's other rights and remedies, Navistar may deduct from any payments due to Supplier the amount of any claims which Navistar may have against Supplier.

In case of any dispute regarding this Contract, Supplier agrees to continue to ship Products for reasonable length of time, but no less than 180 days following such written notice of a dispute, in order to give Supplier and Navistar the opportunity to resolve the dispute.

Supplier must identify all disputes with Navistar in writing within six (6) months of the date of Navistar's receipt of Supplier's shipment involved with the dispute. If Supplier has not identified a dispute to Navistar in writing within this time, Navistar will not be liable for payment.

**10. TOOLING.** In the absence of an executed Tooling and Bailment Agreement, the following terms apply:

Tooling referred to in a Tooling Purchase Order issued by Navistar is owned by Navistar upon completion of payment for such tooling. In the event Navistar-owned Tooling is transferred to Supplier's facility or control, such Tooling will remain the property of Navistar.

Supplier may not issue an invoice to Navistar for Tooling until such Product has been through the Production Part Approval Process (PPAP) by Navistar unless otherwise agreed to in writing.

Supplier agrees, upon receiving the Tooling, to promptly affix, and to continuously keep and maintain, plainly and distinctly, permanently and conspicuously upon the Tooling the following words: "Property of Navistar, Inc." and to keep the Tooling free from other "Property of" markings or labeling which might be interpreted as a claim of ownership by a party other than Navistar. In addition, within ninety (90) days of receiving any Tooling, Supplier shall affix to it the Navistar Tooling Identification Number.

Supplier agrees to use the Tooling for the sole and exclusive benefit of Navistar in the production of the Products for Navistar, and for no other purpose without Navistar's prior written consent; which consent may be withheld at Navistar's sole discretion. Supplier agrees to operate the Tooling within its rated capacity, restrict the use and operation to safe, careful personnel selected and employed or controlled by Supplier, and prohibit anyone other than duly authorized personnel of Supplier to make any repairs or adjustments to the Tooling otherwise permitted hereunder (unless otherwise previously authorized in writing by Navistar).

After the initial PPAP for the Product, or any similar process, Supplier agrees, at its expense, to service, maintain and repair the Tooling: (i) so as to keep it in good operating condition, normal tooling wear is expected, (ii) in accordance with the terms of any manufacturers' warranties, specifications, bulletins or service descriptions, (iii) in a manner consistent with standard industry practice and Navistar's practice and instructions, and (iv) in accordance with applicable laws, regulations, governmental approvals and permits. Supplier will not be required to perform any Capital Improvements (as defined below) to the Tooling. "Capital Improvements" shall mean (a) the purchase of additional machinery, equipment and/or tooling which is required for a new product line, increasing capacity, a design change, or a cost reduction project, and (b) the cost to rebuild or overhaul the Tooling which materially increases its value or expected useful life. To the extent Navistar wishes to perform Capital Improvements, however, Supplier shall cooperate and work with Navistar, or with any contractors used by Navistar, so that Navistar may make any such Capital Improvement that it deems necessary in its sole discretion.

Tooling will be free of all advertising or insignia placed thereon by Supplier, and free and clear of all mortgages, liens, security interests, charges, encumbrances, and claims and in the same operating order, repair, condition, and appearance as when received (except for ordinary and expected wear). Supplier will be solely responsible to Navistar for any damage to or loss of the Tooling, except any damage or loss created by Navistar or agents thereof, until it has been returned to Navistar.

Tooling may not be removed, destroyed or scrapped without Navistar's prior written consent, which can be withheld at Navistar's sole discretion. Tooling that is the subject of intellectual property right(s) may furthermore not be copied without the consent of the owner of such intellectual property right(s). To the extent any intellectual property rights owned by Supplier or licensed to Supplier by a third party is embodied in, or is otherwise necessary for the intended use of the Tooling, Supplier hereby grants to Navistar a fully paid, irrevocable, non-exclusive, worldwide, perpetual to the extent permitted by law, royalty-free license, with the right to grant sublicenses as necessary for any use of Tooling, to use such intellectual property rights.

Upon Navistar's request, Supplier will return all Tooling, drawings and other materials to Navistar.

**11. ENGINEERING SPECIFICATION AND PRODUCTS COMPLIANCE.** Supplier must assure that Products comply with the most current controlled revisions of Navistar's Corporate Material Part and Process Specifications ("MPAPS"), Corporate Engineering Material Specifications ("CEMS"), Truck Material Specifications ("TMS"), Engine Material Specifications ("EMS"), or Engineering Standard Parts ("ESP") as defined in Statements of Work ("SOW"), specification transmittals, prints, models, and math data. Supplier must maintain designs throughout the fifteen year service life of all Products. If Supplier is providing an assembly of components and those components are manufactured by another party, the Supplier needs to provide documentation showing that those components meet the specifications and requirements as called out on the 2D print or 3D math data. If Supplier provides engineered systems and components, Supplier must provide engineering data in the form of solid models in Unigraphics compatible format, on-site engineers during the Product Development Process if requested by Navistar's engineering, prototype parts development capability, and the capability for and use of electronic data exchange for engineering and CAD data throughout the life of the development program and for production maintenance. If Supplier provides commodities, Supplier must provide engineering data as either CAD data or drawings. Navistar will designate a third party firm to be the sole source for controlled copies of the foregoing documents and Supplier is responsible for ensuring that it obtains controlled copies for the duration of the term of this Agreement in order to assure compliance with the most current documents.

**12. REGULATORY COMPLIANCE.** For Products or systems purchased from Supplier that have specific government regulatory performance requirements, Supplier must provide evidence of compliance, in the form of a test report and/or engineering analysis, validating conformance to those specific regulatory requirements. Supplier must provide the same evidence of compliance whenever a change is made to a particular Product or system that affects the performance of that Product or system to a specific government regulatory performance requirement. Supplier must complete a letter of conformance and provide to Navistar as requested.

**13. INSPECTION OF PRODUCTS.** All Products will be received subject to Navistar's inspection or rejection. Defective Products or Products not in accordance with Navistar's specifications will be held for Supplier's instructions and at Supplier's risk, and, if Supplier so directs, such Products will be returned at Supplier's expense. Payment for

Products prior to inspection will not constitute an acceptance thereof. Returned Products will be deducted from total shipments.

## **SUPPLIER PERFORMANCE**

**14. SUPPLY FAILURE.** In the event of a full or partial failure of Supplier's sources of supply or capacity constraints for the Products, Supplier will first meet all of Navistar's requirements hereunder prior to any allocation among customers under Section 2-615 of the Uniform Commercial Code.

**15. LATE DELIVERY CHARGES.** If Navistar determines that Supplier's deliveries are so far behind a given schedule that Navistar requires express shipments, then Supplier will pay the express charges. If Supplier's deliveries are so far behind a given schedule that Navistar is compelled to use material not according to Navistar's specification, or at a higher cost, then Supplier will pay whatever additional costs, expenses, losses, or damages that Navistar sustains. The provisions of this Section are not intended to limit any other rights and remedies that Navistar may have against Supplier.

**16. WARRANTY.** Supplier warrants the Products against all defects in material, workmanship, and assembly, and design (if a Supplier-responsible design.)

Supplier will compensate Navistar for any loss or damage arising out of or relating to a defective Product or other breach of this Warranty, including but not limited to costs (including reasonable attorneys' and experts' fees) for any safety recall or field actions, labor, replacement, assembly and disassembly, detection and analysis, scrapping, and transportation of replacement Product to Navistar and/or its end-users. Supplier agrees to utilize Navistar's claim portal to review and respond to all warranty claims.

**17. ACCESS TO PREMISES.** Navistar will have access, after reasonable notification, to inspect Supplier's production of a Product or Tooling, verify any charges subsequent to payment, perform tests and make other necessary examinations at Supplier's premises, including evaluating any risks for interruption in the supply of Products. Supplier will use reasonable efforts to obtain the same rights for Navistar at the premises of its suppliers.

**18. DUTY REDUCTION PROGRAM DOCUMENTATION.** Supplier will provide annually to Navistar by the specified due date, an accurate and complete NAFTA Certificate of Origin for those Products that qualify for NAFTA or other duty reduction document, (e.g. GSP Form A), and an accurate and complete Country of Origin affidavit for all Products. Supplier must complete the NAFTA Certificate of Origin in accordance with regulations published by the U.S. Department of Treasury in 19 C.F.R. Sec. 181.11, et seq. and any amendments thereto, and in accordance with instructions Navistar issues to Supplier. Supplier shall certify that the Products fulfill NAFTA or other duty reduction program, as applicable, and agree to maintain and provide the necessary documentation to support the eligibility of the Products for the appropriate duty reduction program. In the event that Supplier fails to comply with this requirement, or if Customs determines that any Product does not qualify for the benefits certified, Navistar will charge back to Supplier and Supplier will promptly reimburse Navistar for all import duties, penalties, and taxes paid by Navistar as a result of Supplier's non-compliance. Navistar reserves the right to charge Supplier a two hundred fifty dollar (US\$250) non-compliance charge per part number for Products that do not have documents that comply with this provision.

**19. MANUFACTURING LOCATION OR PROCESS CHANGE.** Supplier may not relocate the production of a Product or change the process to produce said Product, wholly or partly (Including final or tiered components), without Navistar's prior written consent, which consent may be withheld at Navistar's sole discretion. Supplier must use the Navistar Supplier Request for Engineering Approval (SREA) Form to request Navistar's consent to a change in location and complete PPAP approval for all changes as identified in the AIAG PPAP manual. Products produced by Supplier must always be produced by a production process approved by a Part Submission Warrant (PSW) or Deviation. Supplier may not ship, and will not be paid for Product shipped without an approved PSW or Deviation. Such consent, if given, is without prejudice to Navistar's continued rights to require compliance by Supplier with the Contract. If the Contract will be fulfilled by another entity other than Supplier, Supplier shall ensure that such other entity agrees to be bound by all terms and conditions in the Contract and names Navistar as a third party beneficiary in writing. Supplier shall, however, also continue to be responsible for the fulfillment of the Contract.

**20. QUALITY.** Unless specifically exempted by Navistar, Supplier is required to be registered to, compliant with, or working towards, ISO 9001, or a quality management system such as TS 16949. If Supplier is currently registered, then Supplier must maintain its certification with an accredited registrar and must furnish copies of its registration certificates to Navistar. If Supplier is compliant to ISO 9001, but not certified by a recognized third party registrar, Supplier agrees to provide evidence of such compliance to Navistar. If Supplier is working towards its quality registration, then Supplier must provide, upon Navistar's request, evidence of such efforts and, upon receipt of its registration certification, inform Navistar and furnish copies of its registration certificates. Navistar reserves the right to schedule and conduct a Navistar Supplier Assessment (NSA) at any time. Regardless of quality systems registration status, suppliers are required to be capable of fulfilling all Navistar Integrated Supplier Quality Requirements as noted in the *Integrated Supplier Quality and Supplier Guidelines / Terms and Conditions* sections on [www.navistarsupplier.com](http://www.navistarsupplier.com). Direct suppliers are required to cascade these requirements to lower tiered suppliers throughout the supply chain, a practice often referred to as "flowdown." All documents that are created for review as part of PPAP approval must be submitted in English language, or the local language with English in parenthesis.

**21. ELECTRONIC DATA INTERCHANGE (EDI).** Supplier agrees to comply with all EDI requirements of Navistar as posted on [www.navistarsupplier.com](http://www.navistarsupplier.com). These basic requirements include release and receiving suite documents. These conditions are subject to change, and Navistar will notify Supplier of new requirements. If Supplier is unable to meet all the implementation requirements, then the Contract is subject to either termination by Navistar, or a daily assessment of fifty dollars (US\$50), at Navistar's sole option, until the requirements have been met. Supplier agrees that any EDI will be deemed sufficient for enforceability under any state's statute of frauds or similar law. Supplier compliance with Navistar's ASN (EDI 856, Advance Shipment Notification) requirements are mandatory. Valid ASN's must be available for use by Navistar receiving personnel when Supplier shipments arrive at Navistar production plants and service parts distribution centers.

**22. ASSURANCE OF PERFORMANCE.** If Navistar reasonably deems itself insecure with respect to Supplier's ongoing performance, whether due to Supplier's financial capacity or otherwise, Navistar may demand that Supplier provide assurance of future performance to Navistar within five (5) days of the demand. This assurance may be in any security acceptable to Navistar, including but not limited to, collateral consisting of cash, letter(s) of credit, surety bond, parent guaranty, or lender releases. This security shall be in an amount satisfactory to Navistar and shall also be sufficient to offset costs and expenses incurred or reasonably expected to be incurred by Navistar in securing for itself completion of the project or other performance due from Supplier. Navistar reserves its right to any other remedies allowed in law or equity. Failure to provide the requested performance assurance within the stated period shall constitute a default of this Agreement, and Navistar shall be free to procure Product from an alternate source and/or cancel this Agreement in its discretion immediately upon expiration of the time specified for delivery of the requested performance assurance.

**23. SUPPORT.** Supplier will provide at no additional cost to Navistar such design and design qualification assistance, manufacturing assistance, technical, service parts, and field support as reasonably required by Navistar.

## **LEGAL/REGULATORY**

**24. SUPPLIER DIVERSITY PROGRAM.** Supplier agrees to utilize "Small Business Concerns, Small Disadvantaged-Owned Business Concerns, Minority-Owned Business Concerns, Women-Owned Business Concerns, Veteran-Owned Business Concerns, Service Disabled-Owned Veteran Business Concerns, and HUBzone-Located Business Concerns" as required by Federal Laws, 97-507, 99-661, 100-656, 103-355, 105-135 and 106-50.

Navistar's policy states that all suppliers receiving contracts from Navistar in excess of six hundred fifty thousand dollars (US\$650,000), except small business concerns defined above, will set a twenty-three percent (23%) minimum spending goal to further subcontract with Small Business Concerns; will, in addition, set a five percent (5%) minimum spending goal to further subcontract with Small Disadvantaged-Owned Business Concerns; will, in addition, set a five percent (5%) minimum spending goal to further subcontract with Minority-Owned Business Concerns; will, in addition, set a five percent (5%) minimum spending goal to further subcontract with Women-Owned Business Concerns; and will, in addition, set a three percent (3%) minimum spending goal to further subcontract with Veteran-Owned Business Concerns, Service Disabled-Owned Veteran Business Concerns, and HUBzone-Located Business Concerns commensurate with Supplier's sales to Navistar. Supplier further agrees to

submit an annual written plan to Navistar by August 31 of each year outlining how the above stated goals will be achieved. Reference is hereby made to the Supplier Diversity section of Navistar Supplier Network (“NSN”) at [www.navistarsupplier.com](http://www.navistarsupplier.com).

Supplier also agrees to report its accomplishment toward the above goals on a quarterly basis in Navistar’s Reporting System as required by FAR Part 19.7. Navistar acknowledges and agrees that, for purposes of satisfying the foregoing goals: (i) such goals apply only to those goods and services purchased by Supplier in the United States; and (ii) a purchases of goods and services may be entitled to credit toward more than one of the foregoing goals depending on the status of the subcontractor—e.g., a subcontract with a “Minority Owned Business Concern” may also qualify as a subcontract with a “Small Disadvantaged-Owned Business Concern” and/or a “Women-Owned Business Concern.”

**25. COMPLIANCE WITH LAWS AND REGULATIONS.** Supplier agrees that all Products, materials, supplies, articles, or equipment to be manufactured or furnished hereunder will be produced in compliance with the Fair Labor Standards Act. If this Contract exceeds ten thousand dollars (US\$10,000) and is otherwise subject to the Walsh-Healey Public Contracts Act, Supplier also agrees that all Products, materials, supplies, articles, or equipment to be manufactured or furnished hereunder will be produced in compliance with that Act.

**26. GOVERNMENTAL REQUIREMENTS.** Supplier agrees to comply with all applicable statutes, regulations, laws, and other Government requirements, including but not limited to those reflected in contract clauses set forth in 48 C.F.R. Sections 52.203-13 (Contractor Code of Business Ethics and Conduct), 52.219-8 (Utilization of Small Business Concerns), 52.222-26 (Equal Opportunity), 52.222-35 (Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans), 52.222-36 (Affirmative Action for Workers with Disabilities), 52.222-39 (Notification of Employee Rights Concerning Payment of Union Dues or Fees), 52.222-41 (Service Contract Act of 1965) and 52.247-64 (Preference for Privately Owned U.S.-Flag Commercial Vessels). The term “Contractor” and similar terms used in such FAR provisions shall be construed to mean Supplier for the purposes of this Contract.

Some Products are controlled by the International Traffic in Arms Regulations (ITAR). To ensure Navistar’s and Supplier’s compliance with the ITAR and to avoid the imposition of export licensing requirements, Supplier will ensure that each person with access to Technical Data, as defined in 22 CFR Section 120.10, Defense Services as defined in 22 CFR Section 120.9, and Defense Articles as defined in 22 CFR Section 120.6 (collectively “ITAR Materials”) is eligible to be granted access to such ITAR Materials pursuant to 22 CFR Section 120.1(c) or is a U.S. Person as defined in 22 CFR Section 120.15. In instances where Foreign Persons, as defined in 22 CFR Section 120.16, have access to ITAR Materials, Supplier shall immediately provide Navistar with a copy of the license or approval at the time that Supplier provides such Foreign Person with access to the ITAR Materials. For those instances where Supplier employs, retains, or contracts with any Foreign Persons without a license or approval described above, Supplier shall immediately notify Navistar and, if requested, provide Navistar with a detailed explanation of the steps undertaken to ensure that these persons are not gaining access to the ITAR Materials.

Any assets and/or technical data controlled for export per other U.S. regulations, such as the Commerce Control List, may not be re-exported without Navistar’s prior written consent, which consent may be withheld at Navistar’s sole discretion.

**27. HUMAN TRAFFICKING.** By Supplier providing goods or services to Navistar, including to any of Navistar’s Third Party Designees, Supplier is affirmatively representing and warranting that Supplier and its subcontractors do not, directly or indirectly, engage in or otherwise support Human Trafficking. Human Trafficking is defined as: the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

**28. SAFETY DATA COMPLIANCE.** Supplier will properly classify, describe, package, mark, label, and provide material safety data sheets (MSDS) or safety data sheets (SDS), as applicable, for approval by Navistar prior to shipment of all Products. Supplier will prepare all such Products for transportation, accompanied by the approved MSDS or SDS, in accordance with all applicable local, state, and federal laws, ordinances, or

regulations. Supplier will defend, indemnify, and hold harmless Navistar from any claims, penalties, or damages incurred by Navistar as a result of any Products received from Supplier not in accordance herewith.

**29. NON-DISCRIMINATION.** Supplier certifies that it: (1) is in compliance with Sec. 202 of Executive Order 11246, as amended by Executive Order 11375, and subsequent Executive Orders and the Rules and Regulations set forth by the Secretary of Labor in effect as of the date of this order; (2) does not and will not provide or maintain at any of its establishments, nor permit its employees to perform their services at any location under its control where there are maintained segregated facilities; and (3) agrees that a breach of this Certification violates the Equal Employment clause of Executive Order 11246. "Segregated Facilities" means facilities which are in fact segregated on a basis of race, color, creed, religion, or national origin. Supplier agrees to (1) obtain an identical certification from proposed subcontractors prior to the award of subcontracts exceeding ten thousand dollars (US\$10,000) which are not exempt from the provisions of the Equal Opportunity clause, and (2) maintain such certifications in its files. The penalty for making a false representation is prescribed under 18 U.S.C. § 1001, and any such false representation shall be a material breach of this Contract.

**30. VETERANS' READJUSTMENT ASSISTANCE ACT.** Supplier agrees to comply with Section 505 of the Rehabilitation Act, the Vietnam Era Veterans' Readjustment Assistance Act (53 U.S.C. § 2012), and implementing regulations set forth by the Secretary of Labor as are applicable.

**31. CONFLICT MINERALS.** Supplier recognizes, consistent with the public policy underlying enactment of the Conflict Minerals provision (Section 1502) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act"), the significant legal and non-legal risks associated with sourcing tin, tantalum, tungsten and gold (the "Conflict Minerals") from the Democratic Republic of the Congo and adjoining countries ("DRC Countries"). Accordingly, Supplier commits to comply with Section 1502 of the Act and its implementing regulations. In particular, Supplier commits to have in place a supply chain policy and process to undertake (1) a reasonable inquiry into the country of origin of Conflict Minerals incorporated into products it provides Navistar, (2) due diligence of its supply chain, as necessary, to determine if Conflict Minerals sourced from the DRC countries directly or indirectly support unlawful conflict there, and (3) risk assessment and mitigation actions necessary to implement the country of origin inquiry and due diligence procedures. Supplier further agrees (1) to respond promptly to each inquiry by Navistar with such information regarding the source and chain of custody of all Conflict Minerals that may be contained in Products supplied to Navistar by Supplier; (2) if Supplier previously responded to an inquiry to notify Navistar if there is a change in status in whether Supplier's Products supplied to Navistar contain Conflict Minerals; and (3) to cooperate promptly as required by Navistar with Navistar efforts to comply with the Act. Supplier shall take all other measures as are necessary to comply with the Act and its implementing regulations, as they may be amended over time.

**32. INDEMNIFICATION.** Supplier agrees to protect, defend, hold harmless, and indemnify Navistar against all claims, actions, liabilities, losses, costs, and expenses, including, without limitation, reasonable legal cost and fees, punitive damages, consequential damages, and penalties arising out of any actual or alleged death of, or injury to, any person and/or damage to any property, by whosoever suffered, resulting or claimed to result, in whole or in part, from any actual or alleged defect in the supplied Products, including actual or alleged improper design (unless solely Navistar designed), manufacture, or assembly of such Products, or arising out of any actual or alleged violation by Supplier with regard to such Products, or their manufacture, possession, use or sale, of any law, statute, or ordinance, or any governmental administrative order, rule, or regulation.

**33. INTELLECTUAL PROPERTY INDEMNIFICATION.** Supplier is responsible for ensuring that the Product or its use does not infringe the Intellectual Property Rights of any third party. Supplier agrees to defend, at its expense, any claim or suit against Navistar or Navistar's customers, or any of their officers, directors, employees, agents, and affiliates based on an assertion or claim that the Products furnished by Supplier to Navistar hereunder or the sale or the use by Navistar or its customers in the manner contemplated by this Contract infringes any patent or copyright or other intellectual property right or is a wrongful use of a third party trade secret or proprietary information, and further agrees to indemnify and hold Navistar, or its officers, directors, employees, agents, and affiliates harmless from any losses, including attorneys' fees, settlements associated with said claim, or any damages, including attorneys' fees or costs, finally awarded in any such claim. If the use or sale of the Products furnished pursuant to the Contract is enjoined as a result of such suit, Supplier, at its option and at no expense to Navistar, shall obtain for Navistar and its customers the right to use and sell the Product or shall substitute an equivalent Product acceptable

to Navistar and extend this indemnity thereto. Supplier shall, at Navistar's request, assist Navistar in disputes in which Navistar could become involved by reason of such infringement and if required by Navistar assume the defense of any dispute. This indemnity does not extend to any infringement or alleged infringement arising solely out of Supplier's compliance with Navistar-required specifications, designs, or instructions that (i) are created solely by Navistar, and (ii) are thereafter furnished to Supplier in writing.

Supplier may use the Intellectual Property Rights of Navistar and Navistar affiliates and subsidiaries, whether such Intellectual Property Rights are in Products or in Tooling, for the production and supply of Products to only Navistar, Navistar affiliates and subsidiaries, or Third Party Designees (as agreed to by Navistar) and may not use such Intellectual Property Rights for the production and/or supply of any goods or services to any other party. If Navistar or a Navistar affiliate or subsidiary pays, or otherwise compensates, Supplier for development or design work, initiated by Navistar, for Products or Tooling, any Intellectual Property Rights arising from such work shall be owned by Navistar. To the extent that any such development or design work includes Supplier owned Pre-existing Intellectual Property, then Navistar, and Navistar's customers shall have a paid up royalty free license to use or have used such Pre-existing Intellectual Property. Supplier shall not use any corporate name or trademarks belonging to or licensed to Navistar or its Navistar affiliates or subsidiaries other than as instructed by Navistar in writing.

**34. CONFIDENTIAL INFORMATION.** Supplier agrees not to disclose to any third party, or use, except as necessary in connection with the furnishing of the Products or service under this Contract, any confidential information relating to Navistar's business, including business and marketing plans, processes, products, equipment, or trade secrets, as well as confidential information resulting from the performance of this Contract. Any information not available to the public shall be considered confidential for the purposes of this Contract for the duration of the Contract and for ten (10) years thereafter. The confidentiality undertaking outlined above shall not apply to information which is (i) known to the public other than by breach of this Contract, (ii) information which Supplier can show was in its possession before receiving it from Navistar, and (iii) information which Supplier receives from a third party without restraints as to the disclosure thereof.

Information which Supplier is required to disclose by reason of law or order of a court of a competent jurisdiction may however be disclosed for such purpose. Supplier shall notify Navistar of any such requirement and consult with Navistar regarding the manner of such disclosure. Supplier, as far as is legally possible, shall require the receiver of the information to treat it confidential as required in this Section.

Supplier may not make public the business relationship of the Parties through advertising or in any other way without Navistar's prior written consent from which consent may be withheld at Navistar's sole discretion.

If there is a breach of Navistar's confidential information on Supplier's data system, Supplier shall immediately notify Navistar of the breach, provide the scope of the breach, and restore the reasonable integrity, security, and confidentiality of the data system that contains Navistar's confidential information.

**35. OWNERSHIP OF MATERIALS.** All materials, including without limitation, documents, drawings, models, sketches, designs, software, computer tapes and disks, and lists furnished to Supplier by Navistar shall remain the property of Navistar and shall be returned promptly upon completion of the Contract or at any time upon written request of Navistar. Supplier agrees not to make any copies of any such materials without Navistar's permission and to return any copies authorized with the original materials.

**36. TERMINATION.** Navistar shall have the right at any time, and for any reason, without any penalty, to terminate, in whole or in part, this Contract or the deliveries specified and the authorizations contained in any shipping schedule given to Supplier by Navistar, provided Navistar shall provide Supplier thirty (30) days' notice of such termination, whereupon this Contract shall automatically terminate immediately after the 30th day. Upon such termination by Navistar, Navistar shall be under no liability or responsibility to Supplier for Products completed or partially completed, or raw materials acquired by Supplier for the purpose of performing this Contract, unless the delivery or fabrication of such Products or the acquisition of such raw materials were authorized in purchase orders or shipping schedules delivered to Supplier by Navistar.

**37. RIGHTS AND REMEDIES.** The remedies provided in the Contract will be cumulative and, except as expressly

limited in the Contract, will not preclude the assertion or exercise of any other rights or remedies available under law, in equity, or otherwise. No modifications of, or additions to, the provisions or conditions of this Contract will become a part of it until accepted in writing by Navistar.

**38. CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM.** If applicable, Supplier will participate in the Customs-Trade Partnership Against Terrorism program ("C-TPAT"), or have adequate security controls which meet or exceed the requirements of C-TPAT. Supplier also agrees to complete any required supply chain security surveys requested by Navistar.

### **MISCELLANEOUS**

**39. FORCE MAJEURE.** Neither Navistar nor Supplier shall be responsible for delays or defaults due to causes beyond their respective control and without fault or negligence. Strikes and labor disputes shall not be considered Force Majeure events.

**40. SUPPLIER FINANCIALS.** Supplier shall provide Navistar with Supplier's financial information as requested.

**41. OBSOLESCENCE POLICY.** If Navistar cancels, wholly or partly, or fails to purchase a quantity of a Product for which Navistar's order is firm, Navistar shall compensate Supplier for reasonable costs in accordance with Navistar's obsolescence policy.

**42. INVENTORY LEVELS.** Supplier will maintain an adequate amount of inventory on hand to support the forecasted demand. For goods originating from outside the NAFTA Region, Supplier will maintain at least thirty (30) days' supply of goods within the NAFTA Region to support requirements unless otherwise agreed to in writing by Navistar.

**43. SERVICE PARTS AND UNIT DOWN / CRITICAL PURCHASE ORDER SUPPORT.** Navistar's critical purchase order is a requirement for a Service Part that is needed immediately to support Navistar's distressed Dealer or end-user customer. Supplier agrees to provide upon receipt of a critical purchase order a "promise to ship date" response within four (4) hours and agrees to target Service Parts shipment within twenty-four (24) hours. Supplier will obtain an excess freight premium charge number from Navistar and prior approval for air freight charges except in cases of prepay and add freight terms. Supplier further agrees that non-conformance to unit down /critical order requirements will be subject to a minimum charge to be determined on a case-by-case basis.

Supplier will price Production Products and Service Parts similarly, taking into account possible additional costs for Service Parts packaging. Navistar further requires that Service Parts be available for at least fifteen (15) years after cessation of production. Unless otherwise agreed in writing, Supplier shall furnish at its own expense, keep in good condition, and replace when necessary, all dies, tools, gauges, fixtures, and patterns necessary for the production of the Service Parts ordered. Supplier agrees not to scrap Service Part specific production equipment supporting Navistar's post-production Service Parts replacement requirements of at least fifteen (15) years after cessation of production unless it has received the written consent of Navistar, regardless of ownership.

Pricing for Service Parts shall be based upon the price in effect on the issue date of the Purchase Order unless otherwise agreed to by Navistar and Supplier prior to shipment. The price for Service Parts in current model production will be calculated based upon the most recent applicable production price plus the price actually incurred by Supplier for any service-specific packaging. The Service Part price shall be fixed for a period of at least one year from the end of the model series production. After the first year, the most recent production price shall continue to apply until a new Service Part price is mutually agreed upon by Navistar and Supplier. Supplier agrees to fully document any request for a price adjustment to Navistar's satisfaction.

**44. INSURANCE.** Supplier will purchase and maintain commercial general liability insurance in the amount of at least five million dollars (US \$5,000,000) and provide Navistar with a Certificate of Insurance identifying Navistar as an additional insured. Failure to provide such Certificate of Insurance shall void this Contract, at Navistar's sole option. Supplier shall cause insurer or insurance broker to provide thirty (30) days written notice to Navistar prior to cancellation or material changes to the policies. Any such change, modification or cancellation shall not affect Supplier's obligation to maintain the insurance coverage set forth herein.

**45. CODE OF CONDUCT.** Supplier agrees to read and comply with Navistar's Code of Conduct Policy, which is set forth at [www.navistarsupplier.com](http://www.navistarsupplier.com), when conducting business with Navistar. Supplier agrees not to engage in any activity that could cause Navistar or any of Navistar's employees to violate the Navistar's Code of Conduct Policy.

**46. NAVISTAR IDENTITY REMOVAL.** At its own expense, Supplier agrees to destroy or remove to Navistar's complete satisfaction, Navistar's corporate name, addresses, trademarks, patent numbers, and all other reference to Navistar from all Products rejected or canceled by Navistar, or purchased or produced by Supplier in excess of quantities specified by Navistar, whether such Products are completed or partially completed, delivered, tendered for delivery, or undelivered, prior to disposition of such Products to parties other than Navistar; or to destroy such Products. Supplier acknowledges that any sale of Products bearing Navistar's trade name and/or trademarks to any person or entity other than Navistar or as authorized by Navistar in writing is an infringement of Navistar's proprietary rights in its trade name and/or trademarks and is an attempt by Supplier to "pass off" Products as the Products of Navistar. Supplier agrees that it shall not in any manner make known the fact that Supplier has furnished, or contracted to furnish, to Navistar the Products covered by this Contract, or use the name of Navistar or any of its trademarks or trade names in Supplier's advertising or other promotional material without Navistar's prior written consent, which consent may be withheld at Navistar's sole discretion.

**47. ASSIGNMENT OF RIGHTS AND DUTIES.** Either Party may assign the rights and duties under this Agreement, either in whole or in part, only with the prior written consent of the other Party. No permitted assignment hereunder shall be deemed effective until the assignee shall have executed and delivered an instrument in writing reasonably satisfactory in form and substance to the other Party pursuant to which the assignee assumes all of the obligations of the assigning Party hereunder. Any purported assignment of this Agreement in violation of this Article –  
ASSIGNMENT OF RIGHTS AND DUTIES shall be void.