# Terms & Conditions

Unless otherwise specified below, the terms used herein shall have the meanings as specified in the Uniform Commercial Code for Sales as adopted by the Commonwealth of Virginia (Va. Code Title 8.2).

## 1. Offer, Acceptance, and Additional Terms

**1.1. Offer and Acceptance:** Each purchase order, revised order and product release (collectively "Order" or "Orders") issued by a BUYER, is an offer from the BUYER for the purchase of raw materials, goods and/or manufactured products (the "Materials") and is governed by the express terms contained on the Order, any mutually signed commercial Agreement, these Terms and Conditions and any other document incorporated by reference. (Collectively, "Terms") HANWHA AZDEL (or the SELLER) accepts the Order and forms a contract by doing any of the following: (i) commencing any work under the Order, (ii) shipment of the Order, (iii) accepting the Order in writing, (iv) any performance that recognizes the existence of a contract, with respect to the subject matter of the Order. Any acceptance of the Order is expressly conditioned upon the BUYER's acceptance of these Terms, which are intended to control the contract between the BUYER and HANWHA AZDEL.

**1.2. Additional Terms:** Any proposal for additional or different terms, or any attempt by BUYER to change any Terms, whether included in quotation forms, acknowledgement forms, invoices, correspondences or otherwise, are deemed material and therefore objected to and rejected by HANWHA AZDEL, but shall not operate as a rejection of the Order, any mutually signed commercial Agreements, or any other document incorporated by reference (collectively, "Agreements"). Should HANWHA AZDEL accept the BUYER offer in accordance with Section 1.1, forming a contract, then Order shall be deemed accepted by HANWHA AZDEL, without any additional or different terms.

## 2. Purchase Order

**2.1. Order Placement:** The BUYER shall issue accurate Purchase Orders ("POs") reflecting: (i) Current Baseline Pricing, and (ii) Materials ordered, and (iii) ship date or delivery date, and (iv) quantity ordered in sheets, unless otherwise agreed. HANWHA AZDEL shall confirm acceptance via email with a copy of the PO showing HANWHA AZDEL Product Code (PC), within five (5) business days of receipt.

**2.2. Lead Time:** Lead times shall be eight (8) weeks on all PO's, Replacement PO's, orders for prototypes, and any new business opportunities. HANWHA AZDEL may accept, at its sole discretion, PO's and orders which do not comply with the agreed upon lead times, by confirming any exceptions in writing.

**2.3. Delivery:** Delivery terms for all PO's are FOB Lynchburg, Virginia, unless otherwise agreed between the parties.

**2.4. Payment Terms:** Payment terms for all PO's are Net thirty (30) days from date of invoice, unless otherwise agreed between the parties in writing. All invoices for Materials shall be generated and paid for in US Dollars, (USD) rounded to two (2) decimal places (i.e., nearest $0.01).

## 3. Termination

**3.1. With Notice:** Either party may terminate the Agreement at any time, for any reason, by providing ninety (90) days prior written notice to the other party.

**3.2. With Breach:** Either party may terminate the Agreement, upon written notice to the other, if a party breaches a material term of the Agreement and the breach remains uncured for sixty (60) days after receiving the non-breaching party's written notice, specifying the alleged breach and requesting an appropriate cure.

**3.3. Outstanding Orders:** At termination, (i) all outstanding orders as of the date of notice shall be completed and shipped, (ii) all outstanding invoices up to and including the effective date of the termination, shall be paid as due, (iii) all existing Materials in inventory shall be depleted from inventory or guaranteed by the BUYER, prior to termination taking effect, (iv) all remaining unique raw materials, for which there is no other viable outlet, shall be depleted from inventory or guaranteed by the BUYER prior to termination taking effect.

**3.4. Insolvency and Bankruptcy:** Either party may terminate the Order immediately upon written notice, in the event the other party: (i) is dissolved, or (ii) files any petition for relief under bankruptcy laws of any governmental authority, or (iii) has a petition filed against it, which is not dismissed or otherwise resolved in its favor, within sixty (60) days of being filed, or (iv) voluntarily or involuntarily enters receivership or any similar insolvency proceeding, or (v) makes a general assignment for the benefit of creditors, or (vi) commences any winding up or liquidation process, or (vii) fails to, or becomes unable to, generally pay its debts as due, or (viii) ceases to function as an on-going business concern or stops conducting its ordinary business operations, or (ix) takes any action to accomplish any of the foregoing.

## 4. Specifications

**4.1. Definition:** "Specifications" include physical, chemical and structural characteristics of the Materials, including but not limited to, size, weight, shape, color, construction, dimensions, chemical formulation and any other physical characteristics attributable to a particular Materials formulation.

**4.2. New Specifications:** Should any new Specifications be introduced during the term of the Agreement, it and the corresponding price shall be approved in writing by both parties,

prior to implementation and shipping.

**4.3. Modifications to Specifications:** Modifications to Specifications may be initiated by either party, provided: (i) both parties approve the modification in writing, and (ii) all existing Materials in inventory are depleted from inventory or guaranteed by the BUYER prior to modification being implemented, and (iii) all remaining unique raw material(s), for which HANWHA AZDEL has no other current viable outlet, have been depleted from inventory or guaranteed by the BUYER, prior to modification.

**4.4. Forecasting:** The BUYER shall provide HANWHA AZDEL with forecasts for the estimated usage of the Materials annually, itemized by month and by the Materials, at the time of signing the Agreement. The BUYER forecasts are for planning purposes only and are not binding, but shall be updated semi-annually and communicated via email to the designated HANWHA AZDEL representative.

## 5. Warranties and Acceptable Uses

**5.1. Warranty:** HANWHA AZDEL warrants that the Materials shall conform to the written Specifications which are in effect at the time of manufacture.

**5.2. Transfer of Title and Risk of Loss:** The BUYER shall secure transportation for Materials from HANWHA AZDEL. Title to Materials and risk of loss are vested in HANWHA AZDEL until the BUYER takes physical possession of the Materials either directly or indirectly through an agent at HANWHA AZDEL, at which time title to the Materials transfers along with the risk of loss, from HANWHA AZDEL to the BUYER. If HANWHA AZDEL secures transportation of Materials to the BUYER, title to the Materials and risk of loss, transfer from HANWHA AZDEL to the BUYER at the point of delivery, to the BUYER or its agent, which takes physical possession of the Materials for the BUYER.

**5.3. Merchantability & Fitness for a Particular Purpose: HANWHA AZDEL MAKES NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED AND DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, INTEROPERABILITY OR NON-INFRINGEMENT, ALL OF WHICH ARE SPECIFICALLY EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW. ANY DRAWINGS DESCRIPTIONS OR ILLUSTRATIONS NOT EXPRESSLY MADE PART OF THE AGREEMENT, ARE NOT BINDING.**

**5.4. Suitability for Use: HANWHA AZDEL MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO THE SUITABILITY OF THE MATERIALS FOR THE BUYER'S INTENDED USE OF THE MATERIALS, OR THE PROCESSING, APPLICATIONS, SALE, OR MARKETING OF THE MATERIALS. THE BUYER IS SOLELY RESPONSIBLE FOR SELECTION OF THE MATERIALS AND FOR DETERMINATION AS TO THE SUITABLILITY OF THE**

**MATERIALS FOR ITS INTENDED USE, PROCESSING OR SALE.**

**5.5. Acceptable Uses:** The Materials sold to the BUYER are intended for use in automotive and vehicle applications unless otherwise agreed to in writing by HANWHA AZDEL and the BUYER. These uses are the only Acceptable Uses of the Materials. Any use by the BUYER other than these Acceptable Uses automatically revokes or cancels all of BUYER'S rights and remedies under the Warranties of Section 5, the Quality claims under Section 6, and the Indemnity and Liability claims under Section 7. BUYER shall have no right or recourse against HANWHA AZDEL for any uses other than the Acceptable Uses. The BUYER assumes all risk and liability for all uses other than the Acceptable Uses.

## 6. Quality

**6.1. Quality System:** HANWHA AZDEL is a raw material supplier under Bulk Material Approval Process ("BMAP") rules of the Automotive Industry Action Group ("AIAG); Production Part Approval Process ("PPAP") 4th Edition. Proprietary formulations and processes will not be subject to customer review. HANWHA AZDEL is registered under ISO 9001 only, and will not accept purchase order conditions that require registration under any other quality system such as ISO 14000 or TS16949. HANWHA AZDEL will meet initial PPAP and Advanced Product Quality Planning ("APQP") requirements as per agreed commitments with the BUYER and will provide default PPAP submission warrants. Additional BUYER requests for PPAP submissions are to be negotiated separately and may result in additional cost to the BUYER.

**6.2. Claims:** All BUYER claims for quality, quantity or non-conformity to Specifications, raised for any reason by the BUYER, shall be submitted to the HANWHA AZDEL Quality Department within thirty (30) days of the Materials in question having been received, or such claim shall be barred and deemed to have been waived by BUYER. HANWHA AZDEL shall have a right to inspect any Materials which are alleged by the BUYER to be defective, and the BUYER hereby agrees to provide HANWHA AZDEL with the allegedly defective Materials for independent evaluation by HANWHA AZDEL.

**6.3. Substantiated Claims:** All BUYER claims not waived under Section 6.2 may, in full or in part, be deemed as Substantiated Claims, once (i) supported by appropriate documentation, (ii) validated independently by HANWHA AZDEL's internal process data review, (iii) verified through analysis of requested returned samples, and (iv) approved by HANWHA AZDEL for issuance of a Return Material Authorization ("RMA").

**6.3.1. Remedy:** Substantiated Claims are expressly limited to the following remedies, at HANWHA AZDEL's option: (i) replacement of any Materials which form the Substantiated Claim, (ii) reimbursement for any Materials which form the Substantiated Claim, not to exceed its total Purchase Order amount, (iii) reimbursement only for Processed Parts qualified under Section 6.3.2.

**6.3.2. Processed Parts:** Substantiated Claims which include raw boards, fabric, and burden to mold headliner ("Processed Parts"), resulting from the use of Materials of

any Substantiated Claim, shall not exceed: (i) ten (10%) percent of any processed pallet quantity, or (ii) seven (7) consecutive Processed Parts.

**6.4. Claim Resolution:** All BUYER claims, once received by HANWHA AZDEL shall be acknowledged and a 4D analysis provided to the BUYER within three (3) business days of receipt of the claim. Whether to conduct a site visit at the BUYER plant or not, shall be determined by HANWHA AZDEL within eight business (8) days of receipt of the claim. Determination as to whether or not to issue an RMA and implement countermeasures shall be made by HANWHA AZDEL within fifteen (15) business days, or within seven (7) days of onsite visit, whichever is greater, of receipt of the claim. Countermeasures shall be identified and an 8D analysis will be completed and provided to the BUYER within twenty five (25) business days of receiving the initial claim.

**6.5. Third Party Claims:** All warranty claims against HANWHA AZDEL for the Materials sold to the BUYER shall be made by the BUYER. HANWHA AZDEL shall not be liable for third party warranty claims raised by entities that gained title or possession of Materials through the BUYER. Any claims not made in accordance with this provision are waived by the party raising such a claim, without limit.

## 7. Indemnity and Liability

**7.1. Indemnity:** Both parties agree to defend, hold harmless and indemnify the other party, its officers, directors, parent companies, affiliates, employees and assigns from and against all third party claims for damages, losses, liabilities, claims and expenses (including reasonable attorney's fees, professional fees, settlements and judgments) arising out of or resulting from the Indemnifying Party's (i) performance under this Agreement, (ii) negligence, (iii) gross negligence, or (iv) willful misconduct. The Indemnifying Party's obligation to defend, hold harmless and indemnify applies regardless of whether the claim arises in tort, negligence, contract, warranty, strict liability or otherwise, except to the extent claims are the result of the Indemnified Person's negligence, gross negligence or willful misconduct.

**7.2. Representation:** The Indemnified Person shall notify Indemnifying Party of any qualifying claims and has the right to be represented by and actively participate, through its own counsel and at its own expense, in the defense and resolution of any indemnification matters.

**7.3. Liability:** HANWHA AZDEL'S LIABILITY TO THE BUYER OR ANY THIRD PARTY FOR DAMAGES FOR ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF ANY ACTION, WHETHER IN CONTRACT OR IN TORT OR IN EQUITY, INCLUDING, BUT NOT LIMITED TO NEGLIGENCE, SHALL BE LIMITED TO BUYER's ACTUAL DIRECT DAMAGES, NOT TO EXCEED THE AMOUNT PAID BY THE BUYER FOR THE MATERIALS RELATED TO THE CLAIM OR CAUSE OF ACTION. HANWHA AZDEL SHALL NOT BE LIABLE TO THE BUYER OR ANY THIRD PARTY FOR LOSS OF GOODWILL, LOSS OF PROFITS, LOSS OF USE OR OTHER SPECIAL COLLATERAL, INCIDENTAL OR

CONSEQUENTIAL DAMAGES, REGARDLESS OF THE FORM OF ACTION THEREOF, WHETHER IN CONTRACT OR IN TORT OR IN EQUITY, INCLUDING BUT NOT LIMITED TO NEGLIGENCE, EVEN IF HANWHA AZDEL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE BUYER ASSUMES ALL LIABILITY FOR ANY AND ALL DAMAGES ARISING FROM OR IN CONNECTION WITH, THE USE OR MISUSE OF THE MATERIALS BY THE BUYER OR ANY THIRD PARTY, ITS EMPLOYEES, OR OTHERS. HANWHA AZDEL DOES NOT INDEMNIFY THE BUYER OR ANY THIRD PARTY FOR ANY THIRD PARTY INFRINGEMENT THAT MAY OCCUR BY THE BUYER'S OR ANY THIRD PARTY'S USE OF THE MATERIALS OR BY THE BUYER'S OR ANY THIRD PARTY'S USE OR SALE OF ANY GOODS PRODUCED USING THE MATERIALS. THE BUYER AND ANY THIRD PARTY AGREE TO BEAR ALL RISKS AND LIABILITY WHATSOEVER SHOULD THE MATERIALS BE MODIFIED IN ANY WAY BY THE BUYER OR ANY THIRD PARTY.

8. **Force Majeure**

**8.1. Events of Force Majeure:** Any delay or failure by either party to perform its obligations shall be excused, if the non-performance is due to events beyond the party's reasonable control and without its fault or negligence. ("Force Majeure") Examples of these events include, but are not limited to: acts of God; unusually severe weather; war; pandemic; embargo; natural disaster; sabotage; explosion; riot; fire; strike or labor dispute; market unavailability of materials after reasonable efforts to obtain them or comparable substitute materials, actions or failures to act on the part of governmental authorities, which delay or prevent performance; or the party's inability despite due diligence to obtain required licenses.

**8.2. Notice and Response:** Subject to 8.1, if performance by either party is delayed or prevented due to Force Majeure, the time for that performance shall be extended for a period reasonably necessary to overcome the effect of the Force Majeure. The party whose performance is delayed by the Force Majeure shall as soon as possible, but not more than twenty four (24) hours after the occurrence, provide written notification to the other party as to the nature of the delay. The notification shall include a complete explanation of the Force Majeure event and its cause, the status of the Force Majeure, and any actions taken to overcome the Force Majeure. The party whose performance is delayed by the Force Majeure shall exercise due diligence to overcome delays caused by the Force Majeure and shall use reasonable measures to make up for any time lost.

**8.3. Suspension and Termination:** The non performing party may, at its option, suspend performance during the Force Majeure, and no liability shall attach against either party. In the event the Force Majeure event continues for sixty (60) days or more, either party shall have the right to terminate the Order upon written notice.

**9. Confidentiality**

**9.1. Agreement:** The provisions of this Agreement and its terms and conditions as well as all

HANWHA AZDEL customer pricing, customer quotes or other sales information are considered strictly Confidential Information.

**9.2. Confidential Information Defined:** The term "Confidential Information" shall mean all material or information relating to a party's Orders, products, research and development, manufacturing processes, formulas, raw materials, trade secrets, financial information, business information, computer code or instruction, software programs, forecasts, marketing strategies, research results, test results, business operations and affairs that a party treats as confidential or proprietary.

**9.3. Permissible Disclosure:** Either party may disclose Confidential Information regarding the terms of this Agreement, only to its officers, directors, trustees, employees, attorneys, agents, insurers, accountants and other advisors, parents, subsidiaries, affiliates, and third-party suppliers who have a legitimate need to know, and then only if those entities are informed of the confidential nature of the information and are bound to the same, or greater degree of care as the receiving party uses to protect its own Confidential Information of a similar nature, but no less than a reasonable degree of care, to prevent the unauthorized disclosure of the Confidential Information. The party receiving Confidential Information shall not use it for any purpose other than in accordance with the Agreement.

**9.4. Separate Agreement:** Without limiting the party's obligations with each other under a separate Confidentiality Agreement, should a conflict arise between such other Agreement and this Section, the separate Confidentiality Agreement shall govern.

## 10. Governing Law

**10.1. General:** BUYER agrees to comply with all United States laws (federal, state and local) and foreign laws, rules, regulations, treaties and ordinances applicable to performance of its obligations under the Order. The BUYER shall also obtain and maintain in good standing all governmental licenses, permits, registrations and any other approvals necessary for the lawful operation of facilities, equipment and personnel, required for performance of the Order.

**10.2. Choice of Law and Venue:** This Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Virginia, without regard for its conflict of laws provisions. It is agreed that any cause of action shall be deemed to have arisen in the city of Lynchburg, Virginia, and that the exclusive venue for any matters arising out of this Agreement or the breach of it, shall be the Circuit Court for the city of Lynchburg, Virginia or the U.S. District Court for the Western District of Virginia, Lynchburg Division. Both parties further agree and consent to the jurisdiction of these courts to resolve all disputes which may arise out of or relate to this Agreement, or any alleged breach. The parties further agree that subject matter jurisdiction is proper in the courts noted in this paragraph, that personal jurisdiction over the BUYER arises and is proper in these courts by way of BUYER'S purchase of the Materials from HANWHA AZDEL, and agrees not to challenge the basis of any action on any jurisdictional grounds.

**10.3. Conflict Resolution:** The parties shall attempt in good faith to take reasonable informal steps to resolve any disputes arising out of or relating to this Agreement ("Dispute") before pursuing arbitration. If resolution between parties cannot be reached within thirty (30) days, the parties agree to forward the Dispute to senior level managers or officers of the company. If the Dispute still has not come to a resolution within thirty (30) days by the senior level management, the parties then agree to participate in non-binding mediation, in accordance with the mediation rules and procedures of the American Arbitration Association. The parties agree to share equally in the costs of mediation and to negotiate in good faith toward resolution of the Dispute. If resolution cannot be reached between the parties after all previous options have been exhausted, then and only then, may a party seek judicial assistance in a proper court specified in Section 10.2 to resolve the Dispute. The parties agree to each bare their own costs for any mediation and any judicial action to resolve a Dispute.

## 11. Miscellaneous Terms

**11.1. Severability:** Any term or provision of this Agreement that is determined by a court of competent jurisdiction to be invalid or unenforceable shall be severed from the agreement and shall not affect the validity or enforceability of the remaining terms and provisions.

**11.2. Entire Agreement:** The Agreement sets forth the entire arrangement between the parties as to the subject matter, and supersedes all prior and concurrent discussions, Agreements and understandings, whether verbal or written, between the parties. The terms contained in the Agreement supersede any contrary or additional provisions contained in any other Agreement.

**11.3. Waiver:** The failure of either party at any time to require performance by the other party of any provision of this Agreement shall not affect the right to require performance at any later time, nor shall the waiver of either party of a breach of any provision of this Agreement constitute a waiver of any later breach of the same or different provision of this Agreement.

**11.4. Assignment:** This Agreement cannot be assigned by either party without the prior written consent of the other party.

**11.5. Modification:** The Agreement may only be modified in writing and accepted and signed by both parties.

**11.6. Counterparts:** This Agreement may be executed in multiple counterparts, each of which shall be an original as against the parties who signed it and all of which shall constitute one and the same document.

**11.7. Website:** HANWHA AZDEL may from time to time post revised Terms and Conditions for Customer Sales to the HANWHA AZDEL internet website, located at http://www.hanwhaazdel.com or http://www.azdel.com or http://www.azdelonboard.com.

(collectively "Website") Any such revisions are deemed to form part of the Terms and Conditions for Customer Sales, as of the effective date of the revision. Should any inconsistency occur between an Order, Agreement or Terms and Conditions and the Website, the document shall control, unless the revision specified on the Website expressly indicates otherwise. BUYER is responsible for checking postings regularly.

**11.8. Privacy Policy.** These terms and conditions incorporate the HANWHA AZDEL Privacy Policy, which can be found at: https://www.azdel.com/wp-content/uploads/2023/07/Hanwha-Azdel-Privacy-Policy-071423.pdf. This Privacy Policy may be updated from time to time solely at the discretion of HANWHA AZDEL. Submission of an Order issued by the BUYER shall constitute acceptance of the HANWHA AZDEL Privacy Policy.

**11.9. Substances of Concern.** The BUYER agrees that it bears the sole responsibility to undertake all necessary investigations and inquiries to determine if the Materials include any Substances of Concern (as defined by applicable national regulations) that would require disclosure to protect human health and the environment. The BUYER agrees that HANWHA AZDEL shall not be responsible for providing any information to the BUYER in connection with any Substances of Concern where the Materials are used by the BUYER for a use other than the Acceptable Uses.