



**GENERAL CONDITIONS OF SALE**

**1. General Provisions**

1.1 These General Conditions of Sale apply to any and all sales, deliveries and offers of products (the “**Products**”) by Fairfield Manufacturing Company, Inc. (“**Dana**”) to its customers (“**Customer**”). Unless accepted in writing by Dana, conflicting general terms and conditions of the Customer are inapplicable even if Dana does not explicitly reject such conflicting terms and conditions or supplies products without reservation, despite being aware of the conflicting general terms and conditions of the Customer. The Customer acknowledges that no sales of the Products shall be made otherwise than on the terms and conditions. In accepting any delivery of the Products the Customer irrevocably accepts that the terms and conditions set forth herein apply to such sale.

1.2 Any deviations, exceptions or additional conditions shall only be binding on Dana if agreed expressly in writing between the parties hereto. This applies also to any changes of this Clause 1.2.

**2. Prices / Orders**

2.1 Unless otherwise agreed in writing, prices are Ex Works (Incoterms 2010) Dana’s supplying facility and do not include costs of packaging, insurance fees, taxes or duties, or any other charges which may be applicable to the export or import of goods. Sales tax shall be charged separately by Dana in the respective statutory amount on the day of issue of the invoice.

2.2 Prices are subject to change. Agreed prices may be adjusted to reflect increases in material costs, wages and salaries or manufacturing costs, taking into account any decrease of other cost types. Upon Customer’s demand, Dana shall explain to Customer the factors relevant for any price increase.

2.3 Orders shall not be binding upon Dana until they are confirmed in writing (incl. by fax or email). In the event Customer cancels any order for customized products for which Dana has manufactured work-in-process, Dana will be entitled to reimbursement of only the direct and indirect costs for such work-in-process.

**3. Delivery**

3.1 Unless otherwise agreed, delivery will be Ex-Works (Incoterms 2010), Dana’s supplying facility. Products supplied shall remain Dana’s property until full payment of the purchase price for such Products.

3.2 The compliance by Dana with any timelines for delivery is subject to the complete fulfillment of Customer’s contractual and cooperation obligations.

**4. Payment**

4.1 Except as otherwise agreed, payment shall be made by bank transfer within 30 days from the date of the invoice to the bank account stated in Dana’s invoice. Except for charges from Dana’s bank, Customer shall bear all costs and bank charges.

4.2 In case of late payments, Dana may, without further notice, (i) suspend the delivery of Products, (ii) demand default interest as per applicable law, and/or (iii) at its sole discretion, terminate any accepted Orders where delivery has not yet been completed.

**5. Products**

5.1 Any information on the Products such as dimensions, models and any other technical characteristics, on the usage of the Products as well as any other data contained in brochures, prospectuses, newsletters, advertisements, illustrations or price lists of Dana shall only be held binding to the extend agreed in writing between Dana and Customer.

5.2 FFF-Changes require the prior consent of Customer; such consent shall not be unreasonably or inadequately withheld, delayed or conditioned. If Customer does not object to a FFF-Change request within 14 days after being notified by Dana, Customer’s consent to the notified change shall be deemed to be given. Dana shall not be required to notify non-FFF-Changes to Customer or obtain Customer’s consent to such changes. Dana shall have no obligation to implement changes requested by Customer. For the purpose of this clause, “FFF-Change” means any change to Form, Fit or Function of a Product.

**6. Quality**

6.1 Customer shall inspect incoming Products for obvious defects and reject all non-conforming Product(s) within 8 days after receipt of the Products at Customer’s facility and without regard to whether payment has been made for such Product. If no such notice is given, Customer’s rights with regard to such obvious defects shall be precluded.

6.2 If Customer justifiably rejects Products under Clause 6.1 or if a hidden defect is detected prior to the Product or the machine/vehicle, in which it was installed, being delivered to the end customer, Customer shall notify Dana within 8 days from the discovery of the defect and Dana shall, at its discretion, either repair or replace the relevant Products free of charge to the Customer.

**7. Warranty / Liability**

7.1 Upon delivery, Products shall be free from defects in material and workmanship and comply with agreed technical specifications. The warranty period shall be (i) 12 months or 2000 operating hours (whatever occurs earlier) for Spicer® branded driveline Products, or (ii) 12 months for all other Products, starting in each case from the date of Customer’s invoice to the end user or dealer, provided that the warranty period ends in any case latest 18 months after the date of Dana’s invoice to Customer. In case of defects, Dana will either (i) if the repair is performed by Customer with Dana’s prior written consent, reimburse Customer for costs of spare parts as per Dana’s official spare parts list, including the applied discount, and within the limit of the purchase price of the Product in question, or (ii) repair the Product free of charge at its own premises or authorized service center, provided that Customer shall send the defective Product, at its own expense, to the repair location chosen by Dana in its sole discretion. The handling of warranty claims will follow Dana’s Standard Warranty Conditions, as updated from time to time, which are available upon request by contacting [dana\\_oh\\_product\\_service\\_support@dana.com](mailto:dana_oh_product_service_support@dana.com). All further claims and remedies with regard to defects of Products, regardless of their nature, amount or legal basis, are hereby expressly excluded. EXCEPT AS EXPRESSLY , EITHER IN FACT OR BY OPERATION OF LAW, BY STATUTE OR OTHERWISE, AND DANA SPECIFICALLY DISCLAIMS ANY OTHER WARRANTIES, WHETHER WRITTEN OR ORAL, OR EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF QUALITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE OR ANY WARRANTY AS TO THE VALIDITY OF ANY PATENTS OR THE NON-INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES.

7.2 The warranty does not cover (a) Products or components thereof not purchased directly from Dana; (b) products supplied as prior to production approval; or (c) Products that have experienced (i) maintenance and/or repairs which are not executed in accordance with Dana’s official service manual available upon request by contacting [dana\\_oh\\_product\\_service\\_support@dana.com](mailto:dana_oh_product_service_support@dana.com), (ii) storage or transport conditions which are not in accordance with Dana’s requirements available upon request by contacting [dana\\_oh\\_product\\_service\\_support@dana.com](mailto:dana_oh_product_service_support@dana.com), (iii) non-professional installation of the Products or of ancillaries, (iv) damage caused by normal wear and tear, (v) damage caused during reassembly or installation, (vi) operation of the Product or application which is not in accordance with agreed application requirements or agreed Product specifications and/or (vii) the use of components, lubricants or ancillary products that are not approved by Dana.

7.3 TO THE EXTENT PERMITTED BY LAW, NEITHER PARTY SHALL UNDER ANY CIRCUMSTANCES WHATEVER BE LIABLE TO THE OTHER, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR RESTITUTION, OR FOR BREACH OF STATUTORY DUTY OR MISREPRESENTATION, OR OTHERWISE, FOR ANY LOSS OF PROFIT, LOSS OF GOODWILL, LOSS OF BUSINESS, LOSS OF BUSINESS OPPORTUNITY, LOSS OF ANTICIPATED SAVING, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGE SUFFERED BY THE OTHER PARTY THAT ARISES UNDER OR IN CONNECTION WITH THE CONTRACTUAL RELATIONSHIP BETWEEN THE PARTIES. NOTHING HEREIN SHALL LIMIT OR EXCLUDE THE LIABILITY OF EITHER PARTY FOR DEATH OR PERSONAL INJURY, OR FOR DAMAGES RESULTING FROM INTENTIONAL BREACH OR WILLFUL MISCONDUCT.

**8. Confidentiality and Data Protection**

8.1 “**Confidential Information**” shall mean any and all information and records relating to the operation of each party’s business, including, without limitation, trade secrets, technical information, development, production, sales, marketing and pricing.

8.2 Each of the parties agrees to keep the Confidential Information of the other party or its affiliates strictly confidential and not to disclose such information to third-parties, provided that, either party may disclose such information to its employees, representatives, affiliates, suppliers and subcontractors who have a need to know such Confidential Information and further provided that the relevant party remains responsible for such



third party's compliance with the obligations hereunder. The receiving party will only use the Confidential Information of the disclosing party for the purposes of the contractual relationship, and will not use the Confidential Information of the disclosing party to exploit the Confidential Information; to reproduce, redesign, reverse engineer, or manufacture or assemble the disclosing party's products or products similar to such products; to perform services relating to manufacture or assembly of such products or to file any intellectual property registrations.

8.3 All Confidential Information delivered or made available by a party to the other party will be and remain the sole and exclusive property of disclosing party. The disclosing party will retain title to its Confidential Information. Upon written request of the disclosing party, all such Confidential Information of the disclosing party, and any copies, summaries or embodiments thereof, will be promptly returned to the disclosing party or destroyed. Whether such Confidential Information is destroyed or returned will be decided at the disclosing party's discretion.

8.4 Any personal data provided to or collected by Dana will be stored and processed in compliance with Dana's Privacy Policy (<https://danaincorporated.gcs-web.com/static-files/f535db49-12f4-496a-954f-8c69b3457326>). To the extent Customer provides personal data of its employees to Dana, Customer is obliged to inform its employees about the Privacy Policy.

## 9. Miscellaneous

9.1 These General Conditions of Sale and all contracts to which they apply will be governed by and enforced in accordance with the laws of the State of Ohio, without recourse to the conflict of law provisions thereof. The United Nations Convention on Contracts for the International Sale of Goods will in any case not apply. When bringing an action to enforce the Agreement, the Parties agree to the following jurisdiction: the State of Ohio or the location of Dana's place of business associated with the Sale of the Products as determined by Dana in its sole discretion. Dana's remedies herein are cumulative and in addition to any other remedies available in law or equity.

9.2 In the event of force majeure or other hindrances which are beyond a party's control, e.g. work stoppages, strikes, lockouts, governmental bans, energy and transportation shortages, business disruptions, natural disasters, fire, flooding, acts of terrorism, etc. affecting a party directly or indirectly, any resulting delay or prevention of the performance of a party's obligations hereunder shall be excused and the time for that performance shall be extended for a period reasonably necessary to overcome the effect of the force majeure event. The affected party shall communicate such hindrances to the other party in good time and state their prospective beginning and ending.

9.3 Failure to assert any of the rights hereunder shall not be deemed a waiver of such rights.

9.4 A party is not entitled to offset any claims it may have hereunder against any corresponding liabilities, unless such claims are ascertained in a legally binding fashion or undisputed or acknowledged by the other party.

9.5 Any partial or total invalidity of a clause contained in these General Conditions of Sale shall not lead to the invalidity of the entire clause or the entire General Conditions of Sale.

