



# **OEM North American Production P.O. Contract Terms and Conditions Comparative Analysis**

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# OEM Comparative Analysis

## **Background:**

- Original comparative analysis published in May 2002
  - Covered contract terms and conditions from 7 OEMs
  - First published document to help North American suppliers compare OEM contract terms



# OEM Comparative Analysis

- Comparative analysis revised, updated and expanded for 2004
  - Covers revised contract terms from 5 OEMs (Ford, GM, Nissan, Toyota and VW)
  - Adds contract terms from 2 additional OEMs (BMW and Hyundai)
  - Adds OESA Model Terms and Conditions
  - Expands commentary
  - Overall 50% increase in content



# OEM Comparative Analysis

## Overview:

- Contract consists of the P.O., plus contract terms & conditions and other incorporated documents
- OEM contract terms & conditions may be
  - Unsigned document referenced in the P.O.
  - Separate signed master agreement
- Incorporated documents may
  - Contain important obligations or limitations
  - Be subject to change, often without notice



# OEM Comparative Analysis

- Contract typically excludes all other prior documents, understandings and agreements
- Buyer's RFQ, seller's quote, sourcing agreements, confidentiality agreements, and other documents that predate the P.O. are not part of the contract unless specifically incorporated
- Suppliers should understand everything that is included *and* excluded from the contract



# OEM Comparative Analysis

- Comparative Analysis provides a general overview of OEM contract terms & conditions
  - Does not analyze other documents
  - Not a substitute for careful review of relevant contract documents
  
- OEM contract terms are only part of the story
  - What is the overall relationship?
  - How strictly are contract terms applied?
  - How important is the supplier to the OEM, and vice versa?



# OEM Comparative Analysis

## Today's Panel:

- John Bulger, *Corporate Counsel, Hella N.A., Inc.*
- Tim Hefferon, *Deputy General Counsel, ThyssenKrupp Budd Company*
- Denise Lee, *Senior VP of Global Sales, Hilite Industries*
- Lance Lis, *Associate GC, Federal-Mogul Corporation*
- Matt Paroly, *Managing Commercial Attorney, Delphi Corp.*
- Gregg Rasmussen, *VP, Car Business Unit, SKF*



# OEM Comparative Analysis

## Today's Topics:

- Intellectual Property                      John Bulger
- Warranty and Recall                        Tim Hefferon
- Tooling                                         Matt Paroly
- Termination and Default                 Lance Lis



# OEM Comparative Analysis

## **Discussion Format:**

- Brief presentation on each topic
- Comments from other panel members
- Audience questions
- General Q&A session at end