

**Systems & Electronics, Inc.**  
**Purchase Order Terms & Conditions**

**1. ACCEPTANCE:** The order is conditioned upon your assent that the terms and conditions set forth on the face and on the back hereof or on attachments hereto shall constitute the sole terms and conditions of this order. If this is not satisfactory, you must notify us in writing of your specific objections within then (10) days after receipt of this acknowledgement. All terms and conditions of printed acceptance forms that are inconsistent with the terms and conditions of this purchase order are void. This order after acceptance can be modified only in writing signed by this company.

**2. PAYMENT:** Invoices in duplicate shall be mailed to buyer's accounting department when items are shipped. The time for payment for seller's invoices shall commence with date of actual receipt of items in complete accordance with the requirements of this purchase order. Discounts will be calculated as of date of receipt of such conforming items or date of receipt of a proper invoice, whichever is later. Any adjustment in seller's invoice due to shortages, late delivery, rejections or other failures to comply with the requirements of this purchase order will be made by buyer either before or after payment, or materials have been returned to and been accepted by buyer in full accordance with the specifications, and terms and conditions defined herein. No payments made to seller (including, but not limited to progress payments, if made) shall be construed as acceptance or approval of any part of the work. Unless the certifications requested are received with each shipment invoice, the parts or material cannot be used and invoices will not be paid until the certifications are received.

**3. PACKING:** Lists must accompany each shipment showing purchase order number, item number, quantity shipped, buyer's part number, and description as shown herein. Seller shall package to protect against weather and handling damage. Packaging will conform to carrier's tariff and ICC Regulations, unless otherwise specified. Seller shall show purchase order number on each package.

**4. SHIPPING INSTRUCTIONS:** Seller will comply with buyer's routing instructions. Seller will consolidate shipments moving on one day or one bill of lading determining routing by aggregate weight. Unless otherwise specified, for shipments at buyer's risk, on B/L declare lowest value when transportation rates are based on "Actual Value." In all other instance declare no value. Excess freight charges due to improper classification or deviation from routing instructions will be debited to seller's account.

**5. DELIVERY:** Time is of the essence of this order. Seller is not liable for delays due to causes beyond the control of both seller and its subcontractors, if any, unless seller fails to promptly notify buyer in writing when it knows of any such delay. Advance delivery is unauthorized and invoices will be acknowledged and paid as of the scheduled delivery dates. Advance deliveries may be returned at seller's risk. If delivery is not made as scheduled, buyer may cancel without liability and accept completed items, paying therefore the purchase order price of such completed items less the excess of the cost of completing the order elsewhere over the purchase order price of uncompleted items. Excess deliveries may be rejected by buyer and will be at seller's risk and expense, including the return thereof. Premium cost shipment for late deliveries will be at the expense of seller.

**6. QUALITY CONTROL SYSTEM:** Seller shall provide and maintain a quality control system to meet Systems & Electronics, Inc.'s Quality Management System or other specific Quality Assurance Requirements contained in the contract documentation, whichever is acceptable to buyer, for all supplies hereunder if a Government contract number is shown on the order.

The Seller shall notify the buyer of any nonconforming product and shall make arrangements for approval from the buyer of nonconforming material.

The Seller is required to notify the buyer of changes in product and/or process definition and, when defined, obtain buyer approval.

The Seller is required to allow right of access by the buyer, their customers, and authorities to all facilities involved in the order and to all applicable records.

The Seller shall ensure that any buyer purchasing requirements are flowed down to sub-tier suppliers including key characteristics as required.

**7. INSPECTION:** All work shall be subject to inspection and test by buyer at all times and places during period of manufacture or prior to acceptance, shall be subject to final inspection and acceptance at destination by buyer, notwithstanding prior payment, inspection and test by buyer at all times and places during period of manufacture or prior to acceptance, shall be subject to final inspection and acceptance at destination by buyer, notwithstanding prior payment, inspection or acceptance. These rights of inspection and tests are also conferred upon buyer's customer, including the United States Government. Seller shall furnish, at no additional charge, reasonable facilities, equipment, and assistance pursuant to an inspection system acceptable to buyer and the Government. Buyer may use sampling plans for acceptance or rejection of work. If more than two percent of articles sampled are rejected, 100 percent inspection will be made and the cost of this inspection billed to seller or deducted from the seller's invoice. Any work not in accordance with the requirements of this purchase order

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may be rejected by buyer, who may, at its option, and at seller's risk and expense (I) rework or repair rejected work; (II) return rejected work to seller for which seller shall refund the price and pay to buyer the costs incurred by buyer.; (III) require seller to repair or replace any such rejected work; (IV) buyer, at his option may retain any work not conforming to this order at an agreeable reduction in price. All work repaired or replaced by seller shall also be subject to these provisions. These provisions shall not limit warranties herein or implied by law nor limit the rights and remedies of buyer. Seller shall inspect and document all work hereunder as required herein, and shall preserve evidence of inspection for a minimum of three years unless specified in the contractual or regulatory requirements.

**8. WARRANTIES:** Seller warrants that articles and services provided hereunder shall conform to applicable specifications, drawings, and approved samples, and shall be free of defects in workmanship, material and design. These warranties shall run to buyer, buyer's customer, and subsequent owners of the goods or end products of which they are a part and such warranties shall be for a period of eighteen months following acceptance. These warranties shall be in addition to any other warranties, expressed, implied or statutory. Buyer's approval of designs furnished by seller or acceptance of articles covered by this purchase order shall not be a waiver or relieve seller of its warranty or other contractual obligations. Seller agrees to indemnify and holds buyer harmless for all liabilities, loss, costs, damages and other expenses resulting from breach of any said warranties referred to herein. Upon demand seller will add buyer and its customers as additional insured on seller insurance policy.

**9. PATENTS:** Seller shall protect and hold buyer and buyer's customers harmless from all costs, damages, expenses (including reasonable attorney's fees) arising out of alleged or actual infringements of any patents or any trademarks by the articles covered by this purchase order.

**10: AUDIT-INSPECTION OF RECORDS:** Seller agrees to keep and maintain for at least three (3) years following final payment under this purchase order, adequate books and records with respect to all costs of performance of this purchase order. Such records shall be subject to audit and review by buyer and / pr buyer's designee at all reasonable times during the aforementioned.

**11: CHANGE IN SPECIFICATION:** Buyer reserves the right at any time to make changes in drawings, designs and specifications as to any material and / or work covered by this order. The price of any item affected by such change thereafter made or shipped shall be increased or reduced to reflect any increase or reduction in the cost of the production of such item resulting from such change and buyer may amend the shipping schedules accordingly. All changes under this paragraph must be authorized in writing and incorporated into the order by a written purchase order amendment signed by the buyer. Prior to implementation, the Supplier is to notify the Buyer of any changes of the product or process definition and obtain approval from the buyer.

**12: TERMINATION; BREACH OF CONTRACT; DAMAGES; DEFAULT:** Buyer may by notice in writing, direct seller to terminate his order or work under this order in whole or in part at any time and such termination shall not constitute a default in such event, unless seller shall have defaulted or be in default in performance hereof, buyer and seller shall have the rights and obligations contained in the Uniform Termination Clause for Subcontracts set forth in Section 8-706 of the Armed Services Procurement Regulations as amended to the date of this order, which clause is hereby incorporated by reference and made a part thereof. In no event shall seller be entitled to anticipatory profits or special consequential damages. In the event of seller's default or potential inability to perform this order, seller agrees upon demand by buyer to deliver to buyer the raw materials and work in process acquired in order to perform under this order, and buyer may then complete the work deducting the cost of such completion from the price, or in the alternative pay to seller the cost of such raw materials and work in process. Buyer shall have the further right to charge to seller buyer's excess cost to reprocurement of items the same or similar to those ordered hereunder unless seller's failure to perform and timely delivery are excusable hereunder. Notwithstanding the forgoing, the standard commercial items are involved; buyer at all times shall have the right to terminate this contract at its convenience, in whole or in part, without any obligation or liability other than payment for items delivered prior to such termination.

**13: GOVERNING LAW:** The contract resulting from the acceptance of this order is to be construed according to the laws of the state of Illinois.

**14: SUBCONTRACTS:** No subcontracts shall be made by the seller with any other party for furnishing any of the completed or substantially completed articles, spare parts, or work herein contracted for, without the written approval of the buyer.

**15: MATERIAL FURNISHED BY BUYER:** Any materials, tools, or equipment furnished by buyer on other than a charge basis in connection with this order shall be deemed as held by seller upon consignment and seller

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agrees to pay buyer for all such materials, tools and equipment spoiled by it or not otherwise accounted for. All such materials, tools and equipment shall be fully insured by seller against lost by fire or other casualty. When dies, tools, gauges, fixtures and patterns used in the manufacture of material ordered are furnished by or at the expense of buyer, buyer shall be the sole owner of same and all replacements thereof. Buyer shall be entitled to take possession thereof upon completion of this order or upon cancellation thereof. Whether dies, tools, gauges, fixtures, patterns and replacements thereof are furnished at the expense of buyer or seller they are to be kept in first class working condition at all times and the entire cost of maintenance, repair and replacement shall be at the expense of seller without expense to buyer. Dies, tools, gauges, fixtures and patterns furnished by the buyer shall be deemed in first class working condition at the time of receipt by seller and seller agrees to give the buyer immediate written notice of any dies, tools, gauges, fixtures and patterns not in first class working condition after receipt from buyer. Seller expressly agrees that it will not use any of such items owned by buyer in the production, manufacture or design of any articles or materials for any other buyer, without first obtaining the expressed written consent of the buyer.

**16: DRAWINGS, SPECIFICATIONS, AND TECHNICAL INFORMATION:** Drawings, data, designs, samples, tools, patterns, equipment, and other technical information supplied by buyer shall remain buyer's property and shall be held in confidence by seller. Such information shall not be reproduced, used or disclosed to others by seller without buyer's prior written consent, and shall be returned to buyer upon completion of this purchase order or on demand. Any information which seller may disclose to buyer with respect to design, manufacture, sale or use of the items covered by this purchase shall be deemed to have been disclosed as part of the consideration for this purchase order, and seller shall not assert any claim against buyer by reason of buyer's use thereof. Any purchase order requirements are to be flowed down to sub-tier suppliers, including key characteristics. The seller shall ensure that any requirement to comply with a designated specification as defined in the buyer's purchasing information, purchase orders or prints must always be in accordance with the latest revision of the defined specification, unless otherwise instructed by the buyer. The purchase price specified in this purchase order is in part consideration of any design work performed by seller in connection therewith, and seller shall not supply such design to others without buyer's consent.

**17: COMPLIANCE WITH LAWS:** Seller agrees in connection with the production of the articles and /or performance of the services specified herein, to comply with requirements of section 12 (A) of the Fair Labor Standards Act of 1938 as amended. All invoices must carry this certificate in order to be passed for payment. "Seller represents that with respect the production of the article and / or performance of the services covered by this invoice, it has fully complied with Section (A) of the Fair Labor Standards Act of 1938, as amended." To the extent applicable thereto, seller shall in the performance of this order comply with all other federal, state and local laws, and all regulations and orders issued under any applicable law.

**18: ADVERTISING:** Seller shall not, without first obtaining the written consent of buyer, in any manner advertise or publish the fact that the seller has furnished or contracted to furnish buyer with the articles herein mentioned, or disclose any of the details connected with this purchase order to any third party except as herein specified and except as maybe required to perform this purchase order.

**19: ASSIGNMENT:** Neither the consideration to be received by seller under this purchase order nor any of the work performed hereunder by seller shall be assigned or delegated by seller, voluntarily or involuntarily to any other party or entity without buyer's prior written consent.

**20: BUYER'S PROPERTY:** All property used by the seller but owned, furnished, charged to or paid for by buyer, including but not limited to materials, tools, dies, gigs, patterns, fixtures, equipment, and replacement thereof shall be the property of buyer subject to removal and inspection by buyer at any time without cost or expense to buyer. All such property shall be identified and marked as buyer's property, used only for the performance of this purchase order and adequately insured for buyer's protection. Seller shall assume all liability for and maintain and repair such property and return the same to buyer in good condition, reasonable wear and tear excepted, and except for utilization of the property in accordance with the provisions of this purchase order. Similarly any property owned by U.S. Government and acquired by the seller for use on this purchase order, shall be returned to buyer in as good condition as when received, except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of the prime contract of this purchase order. Buyer does not guarantee the quality or suitability of any tooling or other material supplied by it. If this order is for tooling and this purchase order bears a Government Contract Number or designation "U.S. Government" on the face thereof, and if, in fact, the U.S. Government has specifically paid for such tooling, such tooling, upon completion shall be considered and become the property of the U.S. Government. If such designation does not appear on the face of this purchase order, or the U.S. Government has not specifically paid for such tools, such tooling, upon completion, shall become the property of buyer. Buyer shall not be obligated to pay any invoices for tooling until the first articles produced therefrom shall have been received and accepted.

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**21: INSURANCE AND INDEMNIFICATION:** Seller shall indemnify and hold buyer harmless from and against any suits, liabilities, losses, damages, claims, causes of action and expenses (including reasonable attorney's fees) arising out of or connected with any act or omission of seller, its agents, employees or subcontractors in the performance of this purchase order, and seller shall maintain such public liability, property damage insurance, and Workman's Compensation Insurance as will protect buyer from such risk. Upon request, seller shall furnish buyer certificates of such insurance, which will provide that at least ten (10) days prior written notice in writing shall be given to buyer of cancellation or reduction of coverage.

**22: LIENS:** All items to be delivered hereunder and all property to be returned to buyer shall be free and clear of all liens and encumbrances whatsoever.

**23: WAIVER OF TERMS AND CONDITIONS:** The failure of buyer of any one or more instances to insist upon performance of any of the terms or conditions of this purchase order, or to exercise any right or privilege contained in this purchase order, or the waiver of any breach of the terms and conditions of this purchase order shall not be construed as thereafter waiving any such terms, conditions, rights or privileges, and the same shall continue and remain in force and effect as if no waiver has occurred.

**24: DELAY IN DELIVERY OF DATA:** Seller shall deliver technical data, if any, including, but not limited to handbooks, manuals, and maintenance information as scheduled. If such data is not delivered as scheduled, buyer may, so long as data remains undelivered, with whole payment to seller of any amounts due and to become due, refuse further deliveries hereunder and terminate this purchase order for default under the "DEFAULT" clause.

**25: GRATUITIES:** By accepting this purchase order, seller covenants and warrants that no gratuities (in the form of entertainment, gifts, or otherwise (were offered or given by seller or any agent or representative of seller, to any officer or employee of the buyer or buyer's customer (including but not limited to the U.S. Government) with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performing of such contract.

**26: GOVERNMENT AUTHORIZATION TO SUPPLIER:** To the extent authorized by the U.S. Government by a direct contract with seller to the manufacturer of products for direct sales to the U.S. Government, and to the extent that such use will not interfere with seller's performance of this or other orders from buyer in effect at the time the seller enters into such direct contract with the government and upon written notice to the buyer of such Government authorization and the contract number the seller shall have the right to use items mentioned in paragraphs fifteen and sixteen of these Terms and Conditions, which the Government owns or has the right to use or the right to authorize others to use.

**27:** If any provision of this purchase order shall be declared invalid or unenforceable, the remainder of the purchase order shall continue in full force and effect.

**28:** If a Government contract number is shown on this purchase order, the applicable Government pass down clauses will accompany the order.

**29: LATE DELIVERY PENALTY:** A penalty of 0.25 percent of the purchase order will be assessed for every day late from promised delivery date.

**30: ENTIRE AGREEMENT:** The terms and conditions of this purchase order constitute the sole and entire contract between the buyer and seller. No charge, modification, extension, renewal, ratification, rescission, termination, notice of termination, discharge, abandonment or waiver of this order or any of the provisions hereof or any representative, promise or condition relating to this agreement shall be binding upon the buyer unless made in writing and signed by the buyer's purchasing agent or his authorized representative. No modification shall be effected by the acknowledgement or acceptance of the purchase order on seller's forms containing different terms and conditions.