

## 1. Order

These terms and conditions of purchase establish the rights, obligations, and remedies of Buyer and Seller that apply to all orders issued by Buyer for the purchase of Seller's products and/or services ("Products"), and contain the entire agreement of the parties relating to the Products. No additional or different terms or conditions, whether contained in Seller's acknowledgement, invoice, or in any other document or communication pertaining to Buyer's order, will be binding on Buyer unless accepted in writing by an authorized representative of Buyer. Buyer expressly objects to and rejects any additional or different terms and conditions, which shall be ineffective.

If Buyer's order is found to be an offer, the offer is expressly conditional on Seller's acceptance of these terms and conditions without modification or addition. If Buyer's order is found to be an acceptance of an offer, Buyer's acceptance of the offer is expressly made conditional upon Seller's assent solely to these terms and conditions. Shipment of any part of the Products or other commencement of performance by Seller shall be deemed to constitute such assent by Seller. Within five business days after the receipt of an order, Seller shall confirm and accept the order in writing, by electronic transmittal, or by performance.

## 2. Price

The price for Products shall be the price set forth in Buyer's order, except that if Seller offers any third party a lower price for similar quantities of Products (or similar products), the price for Products will be the price offered to that third party. Prices are stated in United States dollars unless otherwise indicated on Buyer's order and are inclusive of all handling, export duties, and sales, use, value added, excise or similar taxes that the parties can agree by contract will be paid by Seller. If any of the foregoing taxes and fees are levied against Buyer, Seller shall reimburse Buyer for those taxes.

If Buyer pays for Products within 20 days after the later of the delivery of the Products or Buyer's receipt of an accurate invoice for Products, Buyer may take a two percent reduction on the amount owed. Otherwise, amounts owed for Products are due ninety days after the later of delivery of the Products or Buyer's receipt of an accurate invoice for Products. Buyer may deduct any amount owed by Seller to Buyer or Buyer's affiliates as a setoff against any amount due to Seller.

## 3. Title; Order; Delivery

Seller shall promptly provide the following information to Buyer: 1) all information requested by Buyer to timely file an Importer Security Filing ("ISF") with the U.S. Customs and Border Protection; 2) all information requested by Buyer to comply with the laws of the country of import; 3) all information required by Buyer to export or re-export the Products; 4) the country of origin for all Products; 5) Seller's declaration of preferential origin or preferential certificates; and 6) all other information reasonably requested by Buyer.

Seller shall adequately package all Products to prevent loss during transit and shall comply with any packaging requirements provided by Buyer. Seller shall include a packing list with each delivery of Products that contains at least the following items: 1) the Order number; 2) Seller's part number; 3) Buyer's part number; 4) quantity shipped; and 5) date of shipment.

Products must be shipped FCA Seller's facility named in Buyer's order (Incoterms 2000), unless a different Incoterms 2000 shipping term and/or named place is designated in the applicable order. Title to Products will pass to Buyer upon delivery. Seller shall not retain any security interest in Products after the passage of title, and shall deliver the Products free of all liens and encumbrances.

Seller shall deliver the Products on the date set forth in Buyer's order. Time is of the essence. Buyer may reject Products delivered prior to the date set forth in the order and Products that fail to meet the warranties in this agreement. If Seller believes that delivery of the Products will be delayed, Seller shall immediately inform Buyer of the anticipated delay, indicate the cause of delay, and use its best efforts to cure the anticipated delay. If Seller does not deliver Products in accordance with the order, including delivery date, Buyer may reject the Products, and Seller shall pay Buyer, at Buyer's option, either (1) the actual damages incurred by Buyer, or (2) 4% of the order price for each day delivery is not made in accordance with the order up to 20% of the total price of the order.

## 4. Inspection

Buyer, Buyer's representatives, and Buyer's customers may inspect Products and components of Products at any time prior to, during, and after delivery, and Seller will allow access to its facilities relating to the Products and will obtain from its subcontractors the right for Buyer, Buyer's representatives, and Buyer's customers to have access to its subcontractor's facilities to facilitate the inspection. Seller shall inspect the Products prior to delivery to ensure the Products meet all requirements of the order and these terms and conditions.

If an inspection reveals the Products or components of Products fail or are likely to fail to comply with all requirements of the order and these terms and conditions, Buyer may reject the Products, or Buyer may, at Buyer's option, require Seller to repair or replace the affected Products or otherwise rectify the failure as requested by Buyer, all at Seller's expense including transportation costs both ways. Buyer may purchase substitute goods in lieu of the rejected Products and Seller shall be liable for any additional costs incurred by Buyer in doing so.

Buyer's, Buyer's representative's, and Buyer's customer's inspection of the Products and components of Products, or any of their approval of drawings, designs, or other documents, will not limit Seller's obligation to strictly comply with the requirements of the order and these terms and conditions.

## 5. Warranty

Seller warrants to Buyer and Buyer's customers that, at the time of delivery and for five years after delivery, Products shall meet the following requirements: 1) be free from liens, security interests, or other encumbrances caused by or on behalf of Seller; 2) be of merchantable quality and fit for the purpose for which they are purchased; 3) strictly comply with Buyer's specifications for the Products and all specifications and representations included in drawings, designs, prototypes, samples, and Seller's catalogs, brochures, and other marketing materials; 4) be free from defects in material, workmanship, and design; 5) not infringe any third party's intellectual or industrial property rights; 6) not include open source code; 7) not contain or introduce any viruses, worm, trap door, back door, timer, clock, counter, or other limiting routine, instruction, or design that would erase data or programming or otherwise cause any Buyer's system to become inoperable or incapable of being used in the full manner for which it was designed or created; 8) not require export licenses for Buyer to export or re-export the Products or any technology or data provided with the Products; and 9) shall meet or exceed the highest industry standards applicable for the Products. Seller warrants to Buyer and Buyer's customers that all information Seller provides Buyer pursuant to this order will be complete and accurate.

If Products fail to comply with the warranties in this section, Seller shall, at Buyer's option, repair, replace, or refund the purchase price of, the affected Products, or otherwise rectify the failure as requested by Buyer, and Seller shall be liable for all associated costs, including but not limited to all transportation, advertising, and labor expenses. Buyer may purchase substitute goods and services in lieu of requiring Seller to repair or replace the affected Products, and Seller shall be liable for any additional costs incurred by Buyer in doing so.

Buyer may initiate and implement a recall, or cause the initiation and implementation of a recall, of Products, if, in Buyer's reasonable discretion, it determines that a recall is warranted, and Seller shall pay for all costs arising out of or related to the recall.

## 6. Compliance with Laws

Seller shall comply with all applicable laws, rules, orders, treaties, and regulations related to the production, manufacture, installation, sale, use, import, and export of all Products, to the extent not inconsistent with United States law. Without limiting the foregoing, Seller will assure that all Products are (1) compliant with the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2008 ("RoHS"), and (2) labeled in accordance with California Proposition 65.

Seller shall comply with all applicable environmental laws, health, and human safety laws, including without limitation, all laws prohibiting child labor, human trafficking, and slavery.

Seller understands that Buyer is an equal employment opportunity employer and is a federal contractor. Consequently, the parties agree that, to the extent applicable, they will comply with Executive Order 11246, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, Section 503 of the Vocational Rehabilitation Act of 1973, as amended, and 29 C.F.R. Part 471, Appendix A.

During the terms of this agreement, Seller shall comply with the United States Foreign Corrupt Practices Act ("FCPA") laws and regulations, the UK Bribery Act, and other applicable anti-corruption laws and regulations.

Seller shall obtain and maintain all licenses, permits, or other approvals required by applicable authorities related to the production, manufacture, installation, sale, use, import, and export of all Products, to the extent not inconsistent with United States law.

Buyer has the right to audit and inspect, at any reasonable time, Seller's books, records, inventory, tooling, and plants to assure compliance with this agreement or any applicable law.

## 7. Indemnification

Seller shall indemnify and defend Buyer and its affiliates, employees, representatives and agents and its direct or indirect customers against any and all damages, liabilities, claims, fines, penalties, costs, expenses or losses, including attorney fees, arising from or relating to: (1) Seller's breach of its representations, warranties, covenants or obligations under this agreement; (2) product liability attributable to an actual or alleged defect in the design of, manufacture of, or warnings and instructions included with Products claimed to have been suffered by any person or entity; and (3) the provision of Products by Seller under this agreement.

## 8. Limitation of Liability

**TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, THE INDEMNIFICATION OBLIGATIONS AND LIMITATIONS IN THIS ORDER APPLY REGARDLESS OF WHETHER A CLAIM IS IN CONTRACT, TORT (INCLUDING BUYER'S NEGLIGENCE, GROSS NEGLIGENCE, AND WILLFUL MISCONDUCT), OR OTHERWISE.**

**TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, BUYER'S ENTIRE LIABILITY FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THE PRODUCTS OR THIS ORDER SHALL NOT EXCEED THE PRICE PAID BY BUYER TO SELLER FOR THE PRODUCTS GIVING RISE TO THE CLAIM.**

**TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, BUYER SHALL NOT BE LIABLE FOR ANY SPECIAL DAMAGES, CONSEQUENTIAL DAMAGES, INDIRECT DAMAGES, INCIDENTAL DAMAGES, STATUTORY DAMAGES, LIQUIDATED DAMAGES, EXEMPLARY DAMAGES, LOSS OF PROFITS, LOSS OF REVENUE, OR LOSS OF USE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.**

#### 9. Insurance

During performance of this order and for five years following the last delivery of Products, Seller shall maintain 1) workers' compensation and employers' liability insurance per statutory requirements plus \$1,000,000 (USD), 2) commercial general liability insurance with minimum limits for bodily injury and property damage on an occurrence basis of \$5,000,000 (USD) per occurrence, 3) automobile liability insurance covering all vehicles used in connection with the Services and deliverables hereunder, covering bodily injury and property damage with a minimum limit equal to \$2,000,000 (USD) per accident, and 4) professional errors and omissions insurance covering the activities of Seller written on an occurrence basis with a minimum limit equal to \$5,000,000 (USD) per occurrence. Seller shall furnish Buyer annually with certificates of insurance evidencing the insurance coverage required by this agreement. The certificates shall name Buyer as an additional insured under the insurance policies, and shall list the insurance company, amount of coverage, policy numbers, expiration date, and include a clause requiring at least thirty (30) days notice of cancellation or modification of the policies, a waiver of subrogation in favor of Buyer and its affiliates, and a clause providing that such insurance is primary and non-contributory with respect to any insurance Buyer may maintain.

#### 10. Cancellation of Order

Buyer may cancel all or any part of an order upon notice to Seller prior to shipment without liability to Seller. Seller will refund all amounts pre-paid by Buyer for the order within thirty days of Buyer's cancellation.

#### 11. Blanket Purchase Orders

If an order is a blanket order, Seller will ship only those quantities released in writing by Buyer.

#### 12. Special Tooling

Buyer may provide patterns, dies, fixtures, molds, jigs or other tools or directly or indirectly pay for tools for use in making Products at Seller's facilities ("Special Tooling"). Unless approved in writing by Buyer, Seller shall not remove or relocate any Special Tooling from Seller's facilities, make any changes to Special Tooling, or reverse engineer any Special Tooling. Seller shall use all Special Tooling solely for manufacturing Products as specified by Buyer in writing. Special Tooling shall remain Buyer's property, be segregated from Seller's property, and be individually marked as Buyer's property. Seller shall maintain Special Tooling in good condition and replace it at Seller's cost if lost, damaged, destroyed, or otherwise rendered unfit for use. Upon Buyer's request, Seller shall transfer possession of the Special Tooling to Buyer free and clear of liens and encumbrances and at the time and place designated by Buyer.

#### 13. Intellectual Property Ownership

Seller grants to Buyer a royalty free, transferable license to use, modify, and sell software contained in Products and any updates, modifications, and upgrades to such software.

Buyer may require Seller to use and label Products with Buyer's or its affiliates' trademarks, trade names, logos or other information ("Company Information"). Company Information is the sole property of Buyer or its affiliates, and Seller shall use Company Information strictly within the method and scope approved by Buyer.

To the extent Seller, its employees, subcontractors, or other agents, design, create, improve, enhance, modify, or engineer any equipment, materials, components, products, software, and/or technology for, on behalf of, or with Buyer that are conceived or introduced to practice in performance of this agreement (collectively, "Intellectual Property") the resulting Intellectual Property shall be considered works made for hire and Buyer owns and Seller hereby assigns and conveys, at no cost to Buyer, all rights, title, and interest to the Intellectual Property and any related invention, improvement, know-how and all other types of intellectual property, whether patentable or not, copyrightable or not, including the right to make derivative works, and including the right to recover for misappropriation or infringement related to Intellectual Property (collectively, "Development IP"). Seller grants Buyer a perpetual, royalty-free, transferable license to use, modify, reproduce, copy, distribute, make, have made, export, import, sell, make derivative works, or otherwise dispose of Seller's intellectual property created, conceived, or first reduced to practice independently of this agreement to the extent necessary or advisable to practice Development IP.

#### 14. Confidentiality

Any information Buyer conveys to Seller, including but not limited to, product designs, customer information, business processes, trade secrets, business plans, forecasts, and financial information, considered proprietary by Buyer is confidential information. Seller shall not disclose or use confidential information without the prior written consent of Buyer, except that Seller may disclose confidential information to its employees who (1) have a bona-fide need to know the information to perform Seller's duties under this agreement, and (2) are bound by a duty of confidentiality to Seller greater than or equal to Seller's duty of confidentiality under this agreement. Seller shall, at Buyer's option, return or destroy confidential information at the Buyer's request or at the termination of this agreement, whichever occurs first. Seller shall be responsible for any breach of these obligations by any party to whom it discloses Buyer's confidential information.

#### 15. Changes

Specifications for Products may be changed only by written agreement between the Parties. Seller shall not make any changes to country of origin, manufacturing location, quality assurance processes, components, or production processes for any Product without the prior written approval of Buyer. Seller shall comply with all requirements of Buyer's current production part approval process ("PPAP") provided at the following address:

[http://www.cooperindustries.com/content/dam/public/Corporate/Company/Sourcing/Cooper\\_Industries\\_PPAP\\_Manual.pdf](http://www.cooperindustries.com/content/dam/public/Corporate/Company/Sourcing/Cooper_Industries_PPAP_Manual.pdf).

#### 16. Non-solicitation

During performance of this order and for two years following the last delivery of Products, Seller shall not directly or indirectly (including through an affiliate or other person or entity) induce or attempt to induce any employee of Buyer to leave Buyer's employ, or otherwise interfere with such relationship.

#### 17. Non-exclusivity

Buyer may purchase Products and products similar to or competitive with Products from any person or entity. Except for products that contain Buyer's intellectual property and Products made using Buyer's confidential information, Seller may sell Products and products similar to or competitive with Products to any person or entity.

#### 18. Publicity

Without the prior written consent of Buyer and unless otherwise required by law, Seller shall not make public or otherwise disclose to any person or entity that a business relationship exists between Buyer and Seller.

#### 19. Law/Dispute Resolution

This agreement is governed by the laws of the State of Texas. If Seller is located in the United States any dispute arising out of or related to this agreement must be adjudicated in state or federal court in Houston, Texas, USA. If the Seller is located outside of the United States, any dispute will be resolved by arbitration in Geneva, Switzerland, by three arbitrators under the International Chamber of Commerce Rules of Arbitration. The language of the arbitration will be English.

The prevailing party in any suit will be entitled to recover its reasonable and necessary attorney fees and other litigation costs.

Any claim related to this agreement must be brought within four years after the date the claim arises.

The parties expressly disclaim the application of the United Nations Convention on Contracts for the International Sale of Goods.

#### 20. Assignment

Buyer may assign its rights and obligations under this agreement to its affiliates, subsidiaries, and successors in interest to all or substantially all of a business' assets. Seller shall not assign, transfer or otherwise delegate this agreement without the prior written consent of Buyer. The terms and conditions of this agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

#### 21. Entire Agreement

This agreement contains the entire agreement between Buyer and Seller with respect to Products and supersedes all other written or oral agreements relating to Products. Any additional terms set forth on any other document or form of Seller, including order acknowledgements and invoices, are material alterations of this contract and are expressly rejected. The terms of this agreement cannot be modified unless done so in a writing signed by the Buyer. A waiver by a party of any breach or default by the other party is not a waiver of any other breach or default, and no course of dealings between the parties will modify this agreement. In addition to the provisions that provide obligations that exceed the term of the agreement, the provisions regarding compliance, warranty, indemnification, intellectual property, confidential information, and dispute resolution survive the cancellation or termination of this agreement. All remedies provided in this order are in addition to any remedies Buyer may have at law.

#### 22. Authority

Seller represents it has the right to enter into and perform its obligations under this agreement and entering this agreement will not breach any obligation Seller has to any third party.

#### 23. Severability

If any provision of this agreement is invalid, illegal, or unenforceable in any jurisdiction, for any reason, the invalidity, illegality, or unenforceability of that provision will not affect any other provision of this agreement, but the invalid provision will be substituted with a valid provision that most closely approximates the intent and the economic effect of the invalid provision and that would be enforceable to the maximum extent permitted in the jurisdiction.

#### 24. Language

The parties have expressly required that these terms and conditions be prepared in the English language. *Les parties aux présentes ont expressément exigé que les présents termes et les bons de commandes émis aux termes des présentes soient rédigés en langue Anglaise.* C1112911