

## RS ELECTRONICS

### TERMS AND CONDITIONS OF SALE

1. Offer and Acceptance. Each quotation or other offer to sell issued or communicated (whether orally or in writing) by RS Electronics or its affiliates as "Seller" (a "Quotation") incorporates by reference these Terms and Conditions of Sale. A Quotation constitutes Seller's offer to the party to whom the quotation is addressed ("Buyer") to enter into the agreement it describes, including, without limitation, to sell the products ("Products") identified in such agreement and it shall be the complete and exclusive statement of such agreement. Buyer shall accept the offer in writing or by the issuance to Seller of a purchase order or other acceptance document for the Products. Acceptance is expressly limited to the terms of Seller's offer. Any additions or modifications proposed by Buyer, whether contained in Buyer's purchase order or other acceptance document, are expressly rejected by Seller and are not part of the agreement in the absence of an agreement in writing signed by a duly authorized representative of Seller. Notwithstanding any contrary provision in Buyer's purchase order or other acceptance document, delivery of Products or commencement of production by Seller shall not constitute acceptance of Buyer's terms and conditions to the extent any such terms or conditions are inconsistent with or in addition to the terms contained in Seller's Quotation. Upon acceptance by Buyer, Seller's Quotation will become a binding contract between Buyer and Seller (collectively, the "Contract").

2. Product Prices. Unless otherwise specified by Seller, Seller's price for the Products set forth in Seller's written Quotation shall remain in effect for thirty (30) days after the date of Seller's written Quotation, provided an unconditional, complete authorization for the immediate manufacture and shipment of the Products pursuant to Seller's standard order processing procedures is received by Seller within such time period. If Seller does not receive such authorization within such thirty (30) day period, Seller shall have the right to change the price for the Products to Seller's price in effect for the Products at the time the order is released to final manufacture or performance. Prices do not include transportation charges. Except where otherwise prohibited by law, all sales, excise, use or similar taxes or charges by the federal, any foreign, or any state or local government, that Seller may be required to pay or collect, shall be in addition to the stated price and shall be paid by Buyer. Notwithstanding any of the foregoing to the contrary, the price for Products sold by Seller, but manufactured by others, shall be Seller's price in effect at the time of shipment to Buyer. Seller reserves the right to increase prices of Products or Services in the event of increases in its raw material costs or other costs or expenses arising after the date of Seller's Quotation. No price reductions shall apply unless specifically agreed to in writing by a duly authorized representative of Seller.

3. Limited Product Warranty. Seller warrants its Assemblies against defects in the normal use thereof which arise solely from faulty material or workmanship for a period of one (1) year after delivery thereof. The term "Assemblies" as used herein shall mean only those Products which are assembled by Seller and shall not include component parts to any Assembly sold by Seller which component parts are in and of themselves finished products. In the case of Products which are not Assemblies, the warranty delivered to Seller by the manufacturer or other vendor thereof shall, to the extent such assignment is permitted by the terms thereof, be assigned to Buyer and shall be expressly in lieu of any other warranty, expressed or implied, of or by Seller. The foregoing warranty, and Buyer's exclusive remedy hereunder, shall be limited at Seller's election to any one of (a) refund of Buyer's purchase price for such Products (without interest) or (b) repair by Seller or by persons designated by Seller of any Products found to be defective in violation of the foregoing warranty or (c) replacement of any such Product. Such repair or

replacement shall be made within a reasonable time and at no cost to Buyer. Failure by Buyer to give written notice to Seller of defects within the applicable warranty period shall be deemed an absolute and unconditional waiver of Buyer's claim for such defects. Products repaired or replaced during the warranty period shall be under warranty for the remainder of the original warranty period or ninety (90) days, whichever is longer. Except as specifically set forth in this paragraph, THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND BY SELLER OR ANY PERSON WHO IS AN AGENT, EMPLOYEE, OR OTHER REPRESENTATIVE OR AFFILIATE OR SELLER, EXPRESSED OR IMPLIED, WITH RESPECT TO THE CONDITION, USE OR PERFORMANCE OF ANY PRODUCTS, THEIR NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OR WITH RESPECT TO ANY OTHER MATTER RELATING TO ANY PRODUCTS. Buyer acknowledges that except as set forth in this paragraph neither Seller nor any other such person has made, and Buyer has not relied upon any express or other warranty or representation (including, without limitation, advertising material, brochures or other descriptive literature) concerning any Product.

4. Limitation of Remedy and Liability. Except for Buyer's sole and exclusive remedies set forth in the foregoing paragraph, Seller shall have no liability or obligation to Buyer or any other persons for any claim, loss, damage or expense of any kind caused in whole or in part, directly or indirectly by the inadequacy of any Products for any purpose, any infringement, deficiency or defect in any Products WHETHER OR NOT COVERED BY ANY MANUFACTURER'S WARRANTY, the use or performance of any Products, any interruption or loss of service, or any special, direct, indirect, incidental or consequential damage, including, without limitation, personal injury or loss of business or profit, or other damage, whether or not Buyer shall have informed Seller of the possibility or likelihood of such or any other damages. Buyer agrees to indemnify and hold Seller harmless from any and all liability, loss, cost or damage described in the preceding sentence, except for the sole and exclusive remedies set forth in the foregoing paragraph, from claims from any party or parties (including, without limitation, claims by Buyer's customers, employees, contractors, subcontractors and agents, their respective employees and any workers' compensation insurance companies of Buyer or its subcontractors), for personal injuries or death or damage to property (tangible or intangible) arising out of the existence or use of the Products or any defect in the Products, whether or not such liability, loss, cost or damage is occasioned in whole or in part by any actual or alleged act or omission of Seller, its representatives, employees, subcontractors, vendors or suppliers, or by any defect in the Products whether or not it is contended that Seller contributed thereto in whole or in part or was responsible therefore by reason of non-delegable duty.

5. Title. Title to the Products sold hereunder passes to Buyer upon delivery. Buyer agrees, however, that Seller shall retain a purchase money security interest in all Products sold by Seller to Buyer, and to all Products now or hereafter acquired by Buyer, and to any proceeds thereof, until the purchase price and any other charges due to Seller shall have been paid in full. Buyer agrees to execute any financing statements or other documents as Seller may request in order to protect Seller's security interest. Upon any default by Buyer hereunder, Seller shall have all rights and remedies of a secured party under the Uniform Commercial Code, which rights and remedies shall be cumulative and not exclusive.

6. Payment Terms. Terms of payment applicable to this Contract are Seller's regular terms or those specifically quoted to Buyer and specified hereunder. In the event of any default in payment by Buyer, or in the event Seller shall, at anytime, deem itself insecure by reason of doubts as to Buyer's financial condition, Seller may decline to make further deliveries except upon receipt of payment or other security arrangements satisfactory to Seller. The election by Seller to require

such payment or security shall not impair the obligation of Buyer to take and pay for the contracted Products.

7. Shipping and Delivery. Shipping and delivery dates are approximate only and subject to change. Seller will provide commercial packaging, adequate under normal conditions, to protect the Products in shipment and to identify the contents. In the event that Buyer requests any special packaging, such packaging will be provided at Buyer's sole cost and expense. If Buyer does not provide routing instructions, Seller will be the sole judge of the best method of routing shipment. All Products are shipped at Buyer's risk and Seller's responsibility for damage to Products ceases when the Products are delivered to the carrier or to Buyer's agent at Seller's facility, whichever occurs earlier, at which time "delivery" to Buyer is deemed to have been made. Buyer is responsible for storage charges in the event the Products are sold by Seller at the request of Buyer pending shipping instructions. In the absence of instructions as to shipping, Seller will select a carrier who is not an agent for Seller and Seller has no liability for such shipment.

8. Freight/Taxes. All freight, express, or delivery charges shall be added to the purchase price as a separate item and shall be paid for by Buyer without being subject to benefit of any discount provisions, if any, contained in the terms of payment. Buyer shall be responsible for the payment of all taxes, excises or other charges with respect to the sale, production or transportation of Product sold hereunder and shall fully reimburse Seller for all expenditures which Seller may be required to make in connection with such taxes, excises or other charges.

9. Claims and Returns. All Products shall be deemed acceptable by Buyer unless, within thirty (30) days from the invoice date, Buyer shall notify Seller in writing that such Products are damaged or defective. Any claims for shortages must be made to Seller in writing within ten (10) days from the invoice date. All claims and returns must be submitted to Seller's facility issuing the invoice. All returns must be authorized by Seller, and no returns may be made without Seller's standard "Return Authorization Form."

10. Cost Recovery. In the event of Buyer's default in payment for the Products, Buyer shall be responsible for the actual costs and expenses incurred by Seller in collection of any sums owing by Buyer and Seller shall not be obligated to make any further deliveries to Buyer. Such costs and expenses shall include, but not be limited to, all costs and expenses incurred by Seller in connection with procuring and filling Seller's order.

11. No Setoff. Buyer is prohibited from and shall not setoff against or recoup from any invoiced amounts due or to become due from Buyer or its subsidiaries or affiliates any amounts due or to become due to Seller or its subsidiaries or affiliates, whether arising under this Contract or otherwise.

12. Infringement. Buyer's sole and exclusive remedy in the event of any claim, demand, suit or action by or against Buyer ("Claim") alleging that the use of any Product infringes a third party's United States or foreign patent, trademark, copyright or other proprietary right shall be as set forth in the manufacturer's warranty, if any, for such Product assigned to Buyer. Seller shall have no liability whatsoever to Buyer or any other party in connection with any Claim of Product infringement, including, without limitation, any liability for the acquisition of a license, the replacement of Products with non-infringing goods, the modification of the Products so that they are non-infringing, or the return of the purchase price for the Products and Buyer waives any and all such rights and/or remedies.

13. Ownership of Proprietary Materials. Seller shall have and retain all rights, title and interest, including all intellectual property rights, in and to all Products and associated materials, including, without limitation, all reports, specifications, drawings, designs, computer programs and any other property, tangible or intangible, related thereto and furnished by Seller in connection with or pursuant to the Contract (“Proprietary Materials”). No Proprietary Materials created by Seller in connection with or pursuant to the Contract shall be considered “works made for hire” as that term is used in connection with the U.S. Copyright Act. To the extent that Buyer owns any rights in such Proprietary Materials, Buyer hereby irrevocably assigns to Seller all rights, title and interest, including all intellectual property rights, in and to such Proprietary Materials.

14. Termination By Seller. In addition to any other rights of Seller to terminate the Contract or suspend performance under the Contract, Seller may, upon written notice to Buyer, immediately terminate all or any part of the Contract or suspend performance under the Contract, without any liability to Buyer, (a) if Buyer (i) repudiates, breaches, or threatens to breach any of the terms of the Contract, (ii) fails to accept or threatens not to accept Services or Products in accordance with the Contract, or (iii) fails to make timely payment for Services or Products, or (b) in the event of the happening of any of the following or any other comparable event: (i) the insolvency of Buyer; (ii) the filing of a voluntary petition in bankruptcy by Buyer; (iii) the filing of an involuntary petition in bankruptcy against Buyer; (iv) the appointment of a receiver or trustee for Buyer; or (v) the execution of an assignment for the benefit of creditors of Buyer. Upon termination of the Contract by Seller, (A) Seller shall be relieved of any further obligation to Buyer, (B) Buyer shall be liable to Seller for the immediate payment of amounts then billed to date by Seller to Buyer, (C) Buyer shall purchase and pay Seller immediately for all raw materials, work in process and finished goods under the Contract, and (D) Buyer shall immediately reimburse Seller for all preparation, handling, make-ready and other expenses incurred by Seller or its subcontractors in connection with the Contract and for all other losses, damages, costs and expenses arising from such termination.

15. Termination by Buyer. Product sales covered by a Non-cancelable and Non-returnable Product Agreement (a “NCNR Agreement”) are non-cancelable and non-returnable by Buyer in accordance with the terms of the NCNR Agreement, which terms are incorporated by reference into the Contract. For Product sales that are not covered by a NCNR Agreement, Buyer may terminate any purchase order under the Contract upon giving written notice to Seller not less than ninety (90) days prior to shipment. In the event that Buyer cancels any purchase order under the Contract, (a) Seller shall be relieved of any further obligation to Buyer, (b) Buyer shall be liable to Seller for the immediate payment of amounts then billed to date by Seller to Buyer, (c) Buyer shall purchase and pay Seller immediately for all raw materials, work in process and finished goods under the Contract, and (d) Buyer shall promptly reimburse Seller for all preparation, handling, make-ready and other expenses incurred by Seller or its subcontractors in connection with the Contract and for all other losses, damages, costs and expenses arising from such termination.

16. Assignment. Buyer may not assign or delegate any of its rights or obligations under the Contract without prior written consent from Seller. Seller may assign its rights and obligations under the Contract at any time, without Buyer’s prior written consent.

17. Excuse of Performance. Seller will not be liable for any failure or delay, in the performance of orders or contracts, or in the delivery or shipment of Products, or for any damages suffered by Buyer by reason of such delay, when such delay, is, directly or indirectly, caused by, or in any manner arises from, fires, floods, accidents, riots, acts of God, war, governmental interference or

embargoes, strikes, labor difficulties, shortage of labor, fuel, power, materials or supplies, transportation delays, delays in deliveries by Seller's vendors or any other cause or causes (whether or not similar in nature to any of these hereinbefore specified) beyond its control. In the event that Seller is unable due to any such occurrence or otherwise, to fulfill its total commitments to all customers, Buyer agrees to accept, as full and complete performance by Seller, deliveries in accordance with such plan or proration as Seller may adopt.

18. Compliance. Seller certifies that the Products to which this invoice relates were produced in compliance with all applicable requirements of Sections 6, 7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof.

19. Descriptions. All specifications, drawings, illustrations, descriptions and particulars of weights, dimensions or capacity and other details concerning Products or their components, including, without limitation, statements regarding compliance with law or regulation (collectively, "Descriptions") wherever such Descriptions appear (including, without limitation, in the Quotation, in Seller's catalogs, on Seller's web sites, and/or on any invoices or packaging materials) are intended to give a general idea of the Products and components, but are not part of the Contract and are not to be deemed representations or warranties by Seller. If the Descriptions of any Products or their components differ from the manufacturers' description, the latter shall be deemed to be correct. Seller relies on such information, if any, as may have been provided to it by the manufacturers of the Products and components and accepts no liability in contract or tort, or under statute, regulation or otherwise for any error in or omission from such Descriptions whether caused by Seller's negligence or otherwise. Where a Product is described as RoHS compliant, this means that, based on information provided by Seller's suppliers, the Product does not contain the substances prohibited by the European Community Directive (2002/95/EC) on the Restriction of the use of certain Hazardous Substances, commonly known as the RoHS Directive, at levels in excess of the anticipated maximum concentration values. Certification of Product or component compliance with RoHS and its exemptions is best vested in the expertise of the Product and component manufacturers rather than those elements of the supply chain not having transformative responsibilities. As such, any information provided by Seller in reference to RoHS compliance is based on the Product or component manufacturers' timely and accurate information and not a declaration of compliance made by Seller.

20. Export and Import Restrictions. Buyer shall be solely responsible for required compliance with the export and import laws of the United States of America and those of any other jurisdiction or country that may be applicable. Seller has no obligation to furnish or obtain any export or import license or similar authorization and is not in any way responsible for the issuance or continuance in force of any such license or authorization. Buyer shall not export, re-export, or transfer, directly or indirectly, any Products to any country or user to which such export, re-export, or transfer is restricted by United States or local country law or regulation without first obtaining any required governmental license, authorization, certification or approval. If Buyer resells or otherwise disposes of any Products, Buyer shall comply with any export restrictions applicable to such transfer. Seller shall have no liability for delayed delivery or non-delivery resulting from denial, revocation, suspension or governmental delay in issuance of any necessary export license or authorization.

21. Governing Law; Jurisdiction and Venue. The Contract shall be governed by and construed in accordance with the laws of the State of Michigan without reference to the choice of law principles thereof. Application of the 1980 United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. Each of Seller and Buyer irrevocably submits

to the jurisdiction of the Courts of the State of Michigan and the United States District Court for the Eastern District of Michigan in any action arising out of or relating to the Contract, and hereby irrevocably agrees that all claims in respect of such action may be heard and determined in such state or federal court. Each of Seller and Buyer irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. Seller and Buyer further agree, to the fullest extent permitted by law, that a final and unappealable judgment against either of them in any action or proceeding contemplated above shall be conclusive and may be enforced in any other jurisdiction within or outside the United States by suit on the judgment, a certified copy of which shall be conclusive evidence of the fact and amount of such judgment. To the extent that either of Seller or Buyer has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, each of Seller and Buyer irrevocably waives such immunity in respect of its obligations under the Contract.

22. Miscellaneous. The Contract constitutes the entire agreement between the parties with respect to its subject matter, and supersedes all prior oral or written representations or agreements by the parties with respect to the subject matter of the Contract, including Buyer's request for quotation unless specifically incorporated in the Contract. No subsequent terms, conditions, understandings or agreements purporting to modify the terms of the Contract, including any subsequent terms of purchase of Buyer or claims based on usages of trade, will be binding unless in writing and signed by both parties. The failure of either party to enforce any right or remedy provided in the Contract or by law on a particular occasion will not be deemed a waiver of that right or remedy on a subsequent occasion or a waiver of any other right or remedy. A finding that any provision of the Contract is invalid or unenforceable in any jurisdiction will not affect the validity or enforceability of any other provision of the Contract or the validity or enforceability of that provision in any other jurisdiction.

**Revision Date: March 24, 2006**