



1. Definitions: As used in these Terms and Conditions, the following terms shall have the following meanings: (a) "Supplies" or "Equipment" shall mean Seller's products or services; (b) The term this "Subcontract," this "Contract" or this "Purchase Order" or this "Agreement" are interchangeable and wherever appearing herein, shall be deemed to mean the contractual instrument, which shall be binding between Buyer and Seller.

2. Price: Prices quoted to Buyer are FFP. Seller reserves the right to change prices or terms after the validity expiration date of the quote or proposal.

3. Terms of Payment: Subject to credit approval and acceptance of Purchase Order by Seller, the Buyer shall pay the Seller, upon the submission by Seller of proper invoices or vouchers, the prices stipulated in this Contract for supplies or services delivered and accepted. Partial shipments and early deliveries are acceptable and will result in partial invoices. Payments received by Seller beyond thirty (30) days from date of submission of the invoice shall be subject to the assessment of interest at the rate of 1.5% per month.

4. Taxes and Duties: All prices are exclusive of federal, state, and local excise, sales and use and similar taxes arising from or assessed in connection with the Purchase Order. Should Buyer be exempt from paying certain taxes described above then Buyer shall be responsible for providing Seller with a properly executed tax exemption certificate acceptable to the interested taxing authorities prior to shipment of supplies or services contemplated under the Purchase Order.

5. Delivery: FOB Origin, SCI Technology, Inc, 13000 S. Memorial Parkway, Huntsville, Alabama 35803, USA. Risk of loss and damage shall transfer to Buyer at shipping point upon transfer to a common carrier.

6. Force Majeure: Seller shall be excused from performance and not be liable for delay in performance or non-performance attributable in whole or in part to any cause beyond its reasonable control and without its fault or negligence, including but not limited to: actions or inactions of government, whether in its sovereign or contractual capacity; judicial action; war, civil disturbance, terrorism, insurrection, sabotage, or act of public enemy; labor difficulty or dispute; fire, flood, storm or other act of God; transportation difficulties; by Buyer's fault or negligence; failure or delay in delivery by Seller's suppliers or subcontractors; strike; shortage of energy, materials or labor sufficient to fill its order (in which case Seller may apply or prorate shipments of its products to or among its customers as in its judgment is reasonable in the circumstances), or inability to obtain export licenses or other event or circumstance beyond the control of Seller.

7. Title and Remedies: Title shall pass to Buyer upon delivery. If Buyer defaults in paying or performing any of its obligations hereunder or Buyer's financial stability changes, Seller may treat all amounts owing hereunder to be immediately due and payable, may deduct same from any other sums due or to become due to Buyer, may withhold any shipments due Buyer, may require advance payments, or seek other remedies as allowed by law.

8. Inspection and Acceptance: Acceptance of the Supplies shall occur no later than fifteen (15) days after shipment, and shall be based solely on whether the Supplies pass a mutually agreeable Acceptance Test Procedure or Inspection designed to demonstrate compliance with the Specifications. Supplies cannot be rejected based on criteria that were unknown to Seller or based on test procedures that Seller does not conduct. Supplies shall be deemed accepted if not rejected within this fifteen-day period.

9. Changes: Buyer may, during the progress of the work, request Seller to perform changes within the scope of work. In no event will changes be undertaken by Seller, nor additional compensation be paid by Buyer, unless and until agreement is reached on the technical and/or commercial impacts of said changes and the Contract is modified in writing accordingly. No alteration, modification, release or waiver, of the Purchase Order or any of the Terms and Conditions herein shall be effective unless agreed to in writing and executed by both parties. Such changes in Purchase Order shall be promptly modified by the Buyer within thirty (30) days following agreement on such change.

10. U.S. Export License and Transfer Approvals: It is expressly understood and agreed that this Agreement, and all obligations arising hereunder, are subject to US export control laws and regulation. Furthermore, to the extent any technical data is exchanged between the parties, the receiving party represents and warrants that no technical data furnished to it by the disclosing party shall be disclosed to any foreign nation, firm, or country, including foreign nationals employed by or associated with the receiving party, nor shall any technical data be exported from the United States without first complying with all requirements of the International Traffic in Arms Regulations (ITAR) or the Export Administration Regulations (EAR), including the requirement for obtaining any export license if applicable. The receiving party shall first obtain the written consent of the disclosing party prior to submitting any request for authority to export any such technical data. The receiving party shall indemnify and hold the disclosing party harmless for all claims, demands, damages, costs, fines, penalties, attorney's fees, and all other expenses arising from failure of the receiving party to comply with this clause or the ITAR and EAR.

11. Information Exchange: Information provided or exchanged between the parties shall remain the property of the disclosing party. Each party shall comply with the terms of any non-disclosure agreement executed between the parties.

12. Public Release Information: No public release of information, news release, announcement, advertisement, denial or confirmation of the Purchase Order or the subject matter hereof or thereof by Buyer shall be made without the prior written approval of the Seller.

13. Limitation of Liability: IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES, OR ANY DAMAGES WHATSOEVER RESULTING FROM LOSS OF USE, DATA OR PROFITS, EVEN IF SUCH OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATION SET FORTH IN THIS SECTION SHALL APPLY WHERE THE DAMAGES ARISE OUT OF OR RELATE TO THIS AGREEMENT. FOR THE PURPOSE OF THIS SECTION, BOTH LOST PROFITS AND DAMAGES RESULTING FROM VALUE ADDED TO THE SUPPLIES BY BUYER SHALL BE CONSIDERED CONSEQUENTIAL DAMAGES, BUT AMOUNTS REQUIRED TO BE PAID TO A THIRD PARTY AS A ROYALTY OR LICENSE FEE SHALL NOT BE CONSIDERED CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL SELLER'S LIABILITY UNDER THIS AGREEMENT FOR ANY PRODUCT (WHETHER ASSERTED AS A TORT CLAIM OR CONTRACT CLAIM) EXCEED THE AMOUNTS PAID TO SELLER FOR SUCH SUPPLIES HEREUNDER. IN NO EVENT WILL SELLER BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS BY BUYER. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

14. Warranty: Seller's warranty period is for one year from date of shipment and is limited to correction of defects in Seller's workmanship. Seller shall, at its option and at its expense, repair, replace or issue a credit for Supplies found defective during the warranty period. In addition, Seller will pass on to Buyer all manufacturers' Component warranties to the extent that they are transferable, but will not independently warrant any Components. All warranty returns shall be done in accordance with Seller's authorized returned material policy. Seller's warranty does not include Supplies that have defects or failures resulting from Buyer's design of the Supplies; accident, disaster, neglect, abuse, misuse, improper handling; alterations, modifications or repairs by Buyer or third parties; or defective Buyer-provided test equipment or test software. THE SOLE REMEDY UNDER THIS WARRANTY SHALL BE THE REPAIR, REPLACEMENT OR CREDIT FOR DEFECTIVE PARTS AS STATED ABOVE. THIS WARRANTY IS IN LIEU OF ANY OTHER WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING MERCHANTABILITY, NON-INFRINGEMENT, COMPLIANCE WITH ROHS AND WEEE (AND SIMILAR LEGISLATION IN OTHER COUNTRIES), AND FITNESS FOR A PARTICULAR PURPOSE.



15. Disputes: The Parties shall attempt to resolve any disputes between them arising out of this Agreement through good faith negotiations. In the event the Parties cannot resolve a dispute, the Parties acknowledge and agree that the state courts of Santa Clara County, California and the federal courts located in the Northern District of the State of California shall have exclusive jurisdiction and venue to adjudicate any and all disputes arising out of or in connection with this Agreement. The Parties consent to the exercise by such courts of personal jurisdiction over them and each Party waives any objection it might otherwise have to venue, personal jurisdiction, inconvenience of forum, and any similar or related doctrine. This Agreement shall be construed in accordance with the substantive laws of the State of California (excluding its conflicts of laws principles). The provisions of the United Nations Conventions on Contracts for the International Sale of Goods shall not apply to this Agreement. The prevailing Party shall be entitled to recover its costs and reasonable attorney's fees from the non-prevailing Party in any action brought to enforce this Agreement.

16. Patent, Copyright, and Trademark Indemnity: Buyer agrees to notify Seller promptly in writing of any notice, suit or other action against Seller based upon a claim that the supplies delivered by Seller under this Purchase Order, infringe a U.S. patent, copyright, or trade secret of a third party. Seller will defend at its expense any such action, except as excluded below, and shall have full control of such defense, including all appeals and negotiations, and will pay all settlement costs or damages awarded against Buyer, but Seller shall not be liable to Buyer for any indirect, consequential or incidental damages, including but not limited to, loss of profits.

In the event of such notice, suit or action, Seller may at its option and at its expense procure for Buyer the right to continue using the equipment or modify the equipment to render such non-infringing, or accept return of the equipment and replace such with substantially equivalent non-infringing equipment, or accept return of the equipment and refund or credit to Buyer the amount of the original purchase price, less a reasonable charge for depreciation and damage.

The preceding agreements by Seller in this section shall not apply (1) to any equipment or portion thereof manufactured to specifications furnished by or on behalf of Buyer; (2) to any infringement arising out of the use of the equipment in combination with other equipment not furnished by Seller; (3) to use in a manner not normally intended; (4) to any patent, copyright, or trade secret in which Buyer, or subsidiary or affiliate thereof, has a direct or indirect interest; (5) if Buyer did not provide Seller with prompt notice, authority, information and assistance necessary to defend the action; (6) if any supply to be furnished under this Purchase Order is to be delivered to the United States Government, unless Buyer's contract with the Government for the product obligates Buyer to provide indemnification to the Government for intellectual property rights infringement, but in that event, only to the same extent as Buyer's obligation. The foregoing states the entire liability of Seller for patent, copyright, trademark and trade secret infringements by the equipment delivered by Seller under this Purchase Order.

17. Termination for Default:

- (a)(1) The Buyer may, subject to paragraphs (b) and (c) of this clause, by written notice of default to the Seller, terminate this Purchase Order in whole or in part if the Seller fails to --
- (i) Deliver the supplies or to perform the services within the time specified in this Purchase Order or any extension;
 - (ii) Make progress, so as to endanger performance of this Purchase Order (but see subparagraph (a)(2) of this clause); or
 - (iii) Perform any of the other provisions of this Purchase Order (but see subparagraph (a)(2) of this clause).
- (2) The Buyer's right to terminate this Purchase Order under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Seller does not cure such failure within 10 days (or more if authorized in writing by the Buyer) after receipt of the notice from the Buyer specifying the failure.
- (b) The Seller shall not be liable for any excess costs if the failure to perform the Purchase Order arises from causes beyond the control and without the fault or negligence of the Seller.

Examples of such causes include

- (1) acts of God or of the public enemy,
 - (2) acts of the Government in either its sovereign or contractual capacity,
 - (3) fires,
 - (4) floods,
 - (5) epidemics,
 - (6) quarantine restrictions,
 - (7) strikes,
 - (8) freight embargoes, and
 - (9) unusually severe weather.
 - (10) failure or delay in delivery by Seller's suppliers or subcontractors.
- (c) If this Purchase Order is terminated for default, the Buyer may require the Seller to transfer title and deliver to the Buyer, as directed, any
- (1) completed supplies, and
 - (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Seller has specifically produced or acquired for the terminated portion of this Purchase Order.

Upon direction of the Buyer, the Seller shall also protect and preserve property in its possession in which the Buyer has an interest.

- (d) The Buyer shall pay Purchase Order price for completed supplies delivered and accepted. The Seller and Buyer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause.
- (e) If, after termination, it is determined that the Seller was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Buyer.
- (f) The rights and remedies of the Buyer in this clause are in addition to any other rights and remedies provided by law or under this Purchase Order.

18. Termination by Seller: Seller may terminate this Purchase Order if Buyer defaults in a material respect in the payment of money to Seller under this Purchase Order and fails to cure such default within ten (10) days after receiving written notice of its decision immediately to terminate this Purchase Order. If Seller terminates this Purchase Order based on Buyer's breach then the Seller shall be entitled to damages, including lost profits the Seller would have realized, had the Seller been permitted to perform in accordance with the Purchase Order.

19. Assignment: Neither party shall assign the Purchase Order to any other party without the prior written consent of the other party. Any attempted or purported assignment of the Purchase Order without the other parties' prior written consent shall be null and void and not binding.

20. Orders Issued Under Government Prime or Subcontracts: Nothing in SCI's Standard Terms and Conditions shall be construed to authorize the waiver of any provision of law as prescribed in FAR Part 12, or terms as set forth in FAR 52.244-6, Subcontracts for Commercial Items, if applicable.

21. Survivability: The following provisions shall survive the completion or termination of this Purchase Order: U.S. Export License and Transfer Approvals (10), Information Exchange (11), Public Release Information (12), and Limitation of Liability (13).

22. Restocking: Restocking may be accepted with specific written approval of Seller. Special products shall be subject to all expenditures made and committed for this order with a reasonable allowance for prorated expenses and profit. All authorized returns will be subject to a restocking charge of 20%.

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23. Waiver: Any waiver by either party of a breach or default shall not constitute a general waiver of any other breach or default otherwise occurring.

24. Enforceability: The parties agree that if any portion of this Purchase Order shall become illegal and/or unenforceable, the remaining portion shall continue to be binding and enforceable provided that the validity of the remaining portion would not defeat the overall business intent of the parties or give one party any substantial financial benefit to the detriment of the other party.