



## STANDARD TERMS AND CONDITIONS OF SALE Rev 2.10, October 17, 2018

THE FOLLOWING TERMS AND CONDITIONS SHALL APPLY TO AND FORM AN INTEGRAL PART OF THE PURCHASE ORDER ISSUED TO ANODYNE ELECTRONICS MANUFACTURING CORP. UNLESS OTHERWISE AGREED IN WRITING.

### 1. Interpretation

The "Buyer" refers to the party issuing a Purchase Order and Anodyne Electronics Manufacturing Corp. (AEM) is herein referred to as the "Seller". When used herein the word "Contract" means the Buyer's Purchase Order and these terms and conditions. "Work" means all required items, materials, supplies, goods, and services constituting the subject matter of the Contract. The provisions of this Contract are for the benefits of the Buyer and the Seller and not for the benefit of any other person.

### 2. Contract Acceptance

The Buyer acknowledges and agrees that it shall be bound by the Contract including these terms and conditions incorporated by reference and the Seller accepts this order only upon these terms and conditions to the exclusion of all other terms which the Buyer purports to apply under any Purchase Order. The Contract supersedes all prior representations, arrangements, communications, negotiations, understandings or agreements of whatsoever kind, whether written or verbal, between the parties in respect of the subject matter of the Contract or any part thereof and shall constitute the sole and only agreement between the parties in respect of such subject matter. The Contract must be accepted and confirmed in writing by Seller. Any amendment to the Contract shall be of no force or effect unless made in writing and signed by authorized representatives of the Seller and the Buyer.

### 3. Price

In consideration of the performance by the Seller of its obligations hereunder the Buyer shall pay to the Seller, subject to the times, manner, and terms set forth in the Contract, the price set out on the Purchase Order to which these terms and conditions apply. The Contract price is exclusive of any allowance for taxes of any kind (including sales tax, goods and services taxes), shipping costs, or customs duties of any kind related to the Work. If applicable, such taxes, costs, and duties shall be for the account of the Buyer.

### 4. Quality

The Work shall conform to the agreed specifications, plans, drawings, patterns, or samples as appropriate forming part of the Contract. The Seller's quality assurance system shall be consistent with the requirements of ISO 9001/AS9100. Seller will retain all records that affect quality for a minimum of 10 years. During manufacture of purchased product, all of Seller's processes may be subject to verification or audit at Seller's location by Buyer, Buyer's customers and applicable governmental agencies (e.g. Transport Canada, FAA, etc.).

### 5. Packing, Shipping, Title & Risk

The Seller shall package all Work to good commercial standards. The Buyer shall select the transportation and carrier. Title to and risk of loss for contracted deliverables (excluding data) shall pass from the Seller to the Buyer upon delivery specified as FCA Seller's Premises (INCOTERMS 2000).

### 6. Inspection and Acceptance of Work

The Seller shall, if requested by the Buyer, give the Buyer reasonable access to the inspection of the Work and shall provide all reasonable facilities as may be required by the Buyer. The Buyer shall accept the Work or give Seller notice of rejection within thirty (30) days after delivery. No such acceptance shall relieve Seller from any of its obligations under the Contract or impair any rights or remedies of the Buyer.



#### 7. Payment, Delivery

Buyer agrees to pay the Seller's invoices Net 30 days (on approved credit), or as otherwise agreed in writing, from the latest of: a) Buyer's receipt of a valid invoice, b) scheduled delivery date of the Work, or c) actual delivery date of the Work. The Seller may complete or deliver all or any part of the Work in advance of the delivery schedule set out in the Contract, provided there are no restrictions to the contrary clearly specified on the Buyer's Purchase Order.

#### 8. Warranty

For a period of two (2) years for 'standard' products, and for a period of three (3) years for LS, LSA and LSC series products, from customer warranty registration date, or established valid warranty coverage through shipment records of the date of receipt, the Seller at its expense will repair or replace at the Seller's sole discretion, goods or parts thereof (excluding Buyer-furnished supplies incorporated therein) which to the satisfaction of the Seller have proved defective in materials or workmanship or fail to conform to the applicable specifications; provided that such goods will at the option of the Seller be returned to it for inspection properly packed and all expenses prepaid. In no event shall the Seller's liability hereunder extend beyond repairing or replacing the defective supplies.

This warranty is the Seller's sole liability for defects after delivery and excludes all other warranties or representations express or implied in fact or by law or equity. If Seller determines that neither repair nor replacement of defective goods is practical using reasonable commercial efforts, then Seller may terminate this Contract and refund amounts Buyer paid Seller under this Contract for the defective goods. All non applicable warranty claims by Buyer shall be subject to Seller's standard material costs and labour rates in force at the time of claim. Additional warranty information is provided at Seller's website [www.aem-corp.com](http://www.aem-corp.com). Product support and spares provisioning shall be in accordance with the Seller's standard commercial practices. ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, SUCH AS WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY SPECIFICALLY AND WHOLLY EXCLUDED AND DISCLAIMED TO THE EXTENT THEY EXCEED THE WARRANTIES GRANTED HEREIN.

Seller will not be liable under this warranty for: (1) maintenance, repair, installation, handling, packaging, transportation, storage, operation or use of Products which is improper or otherwise not in compliance with Seller's instruction; (2) Product alteration, modification or repair by anyone other than Seller or those specifically authorized by Seller; (3) accident, contamination, foreign object damage, abuse neglect or negligence after Product shipment to Buyer; (4) damage caused by failure of a Seller-supplied Product not under warranty or by any hardware or software not supplied by Seller; (5) use of counterfeit or replacement parts that are neither manufactured nor approved by Seller for use in Seller-manufactured products; (6) Products normally consumed in operation or which have a normal life inherently shorter than the foregoing warranty period including, but not limited to, consumables (e.g. flashtubes, lamps, batteries, storage capacitors, etc.).

#### 9. Repairs

The Buyer acknowledges that acceptance of the Repair Cost Estimate provided by Seller binds the Buyer to the costs and conditions detailed thereon. A Purchase Order issued by the Buyer can be accepted as approval, however the costs and conditions of the Purchase Order cannot change the costs and conditions of the Repair Cost Estimate unless agreed in writing. The Seller will undertake the work agreed and will not change these costs and conditions without written approval from the Buyer. The Buyer agrees to pay a reasonable cost for the evaluation of the unit if the Repair Cost Estimate is not accepted or approved. Seller is not responsible for loss of income with regards to grounding of an aircraft due to Buyer's goods being damaged, while in Seller's possession, in the event there is an insured loss at Seller's facility.

The Seller reserves the right to not complete the repair of the Buyer's goods due to parts availability or if the cost of the repair is judged to be in excess of 60% of the cost of a new unit as determined by the Seller, and is therefore considered to be Beyond Economical Repair (BER).

Repair warranty is valid for 90 days (specific to the repaired subassembly or circuit) or for the remaining warranty period, whichever is longer. Notwithstanding any provision to the contrary with respect to goods being repaired, the terms and conditions of the original purchase of the goods shall prevail. If goods or parts thereof are exchanged, or if they are repaired, the term of the original warranty shall be extended by the time necessary for carrying out such an exchange and/or repair.



#### 10. Applicable Law and Forum

The Contract shall be interpreted and governed in accordance with the plain English meaning of its terms under the laws of British Columbia and the laws of Canada applicable within, without regard to conflicts of law principles. The Seller shall at all times ensure the performance of its obligations contained in the Contract are in compliance with all relevant enactments, orders, regulations, and other instructions having the force of law.

#### 11. Changes

The Buyer may, by delivery of a written notice (a "Change Notice"), make changes at any time and from time to time to any Contract document, drawings and specifications relating to the Work or by requesting additional Work or the omission of Work and if such changes cause an increase or decrease in the cost of performance of the Contract or in the time required for its performance, an equitable adjustment shall be agreed in writing by the Buyer and the Seller within ten [10] days of the delivery of the Change Notice (or such longer time as the Buyer and Seller may mutually agree) and the Contract shall be amended in writing accordingly. Failing agreement on an equitable adjustment, the Seller shall be under no obligation to implement the change requested in the Change Notice. The Seller may propose changes at any time and from time to time to any Contract document, drawings and specifications relating to the Work provided that if it does so it shall prepare, at its cost, a written proposal to the Buyer containing the following minimum information (a "Change Proposal"): (a) effect on price; (b) effect on delivery dates; (c) impact on the Work, if any; (d) effect on any other Contract Document. Each such Change Proposal shall be submitted to the Buyer with a stated proposal validity period, within which the Buyer shall either accept or reject the Change Proposal. On receipt of written notice of acceptance the Seller shall be entitled to proceed with the change as if the Contract were amended in accordance with the Change Proposal.

#### 12. Customs and Import/Export

Upon notification by Seller, the Buyer shall be responsible to provide to the Seller all end-use statements and information as may be required by the Seller to comply with the requirements of any applicable export, import laws, and/or regulations. The Buyer shall be solely responsible for the accuracy and completeness of information provided to the Seller and shall be responsible for all costs or delays resulting from failure to provide accurate and complete information, or failure to obtain any license(s) if applicable. Buyer shall indemnify and hold Seller harmless to the full extent of any loss, damage, cost, expense, or liability including lost profits, attorney's fees and court costs, for any failure or alleged failure of Buyer to comply with such laws and regulations including the transfer of controlled goods or technology and for any false statements or material omissions by Buyer with respect to the information provided.

#### 13. Disputes

The Buyer and Seller shall use all reasonable endeavors to resolve any dispute themselves. Any unsettled dispute arising out of or in connection with this contract, or in respect of any defined legal relationship associated or derived from it, shall be referred to and finally resolved by arbitration under the rules of the British Columbia International Commercial Arbitration Centre [<http://www.bcicac.com/index.php>]. The appointing authority shall be the British Columbia International Commercial Arbitration Centre, who shall administer the case in accordance with its Rules. The place of arbitration shall be Vancouver, British Columbia, Canada. The parties agree that the determination and award of the arbitration panel shall be final and binding on both parties. Where money is claimed to be due and payable and a party disputes its obligation to pay any portion thereof, the party so disputing its obligation may hold back only the disputed portion pending resolution of the dispute. Unless the continued performance of any part of the Work by the Seller, given the subject matter of the dispute, could lead to costs thrown away for the Seller, the Seller shall continue to perform the work diligently, notwithstanding the existence of such dispute.

#### 14. Excusable Delay

A delay in the performance of an obligation of the Seller under the Contract that is caused by an event beyond the reasonable control of the Seller shall constitute an Excusable Delay. For greater clarity, it is agreed that any delay caused by any one or more of the following events shall be an Excusable Delay: (a) delay by the Buyer in performing any of its obligations under the Contract; (b) strikes, lock-outs or other labour disturbances; (c) fire, flood, war, hostilities, insurrection, civil unrest, blockage, terrorism; (d) perils of the sea, earthquake or other acts of God; (e) delay or refusal by any government, government department, authority or administrative agency to issue any permits, licenses or other approvals necessary for the performance of any of the obligations of the Seller under the Contract, or any revocation of the same, or any prohibition by such government, government department, authority or administrative agency of any such obligation; or (f) a delay caused by a failure by a third person engaged by the Seller as a supplier of any part of the Work if such delay is caused by or results from events that are beyond the reasonable control of the Seller. The Seller shall not be liable for the results of an Excusable Delay and the contracted date of performance or delivery shall be extended for a period of time as may be reasonably necessary to compensate for any such delay.



15. Termination and Default by Seller

The Buyer may terminate all or any portion of the Work at its convenience upon thirty days written notice to the Seller. Upon termination, the Buyer shall pay the Seller for all work completed on the basis of the Contract price for all completed Work, together with the Seller's actual costs plus fair and reasonable profit on all Work in progress and all Work attributable to the termination that Seller can demonstrate using generally accepted accounting practices.

If the Seller is in default of performing any of its material obligations under the Contract and fails to remedy or take reasonable steps to remedy the default within thirty days after receipt of a written notice from the Buyer, or if the Seller is in receivership, or becomes insolvent or bankrupt, the Buyer may terminate all or any portion of the Contract for default.

Termination of the Contract releases both parties from their obligations under it, subject to any payments, which may be due for Work accepted by the Buyer. Termination does not affect any provision of the Contract for the settlement of disputes or any other provision of the Contract governing the rights and obligations of the parties consequent upon the termination of the Contract.

16. Intellectual Property

Neither the execution or delivery of any Work shall be construed as granting, by any act or acceptance of fact, any right in or license under any present or future data, drawings, plans, ideas, methods disclosed under the Contract, or under any invention, patent, copyright, or trade secret now or hereafter owned or controlled by either the Buyer or Seller.

17. Confidentiality

The Buyer and Seller agree that they will not disclose or make available to any third party any data or other information pertaining to this Contract which is identified as proprietary without obtaining the disclosing party's prior written consent.

18. Data Rights

The Seller shall have or retain the entire right, title and interest to all data first produced or specifically used by the Seller in the performance of the Contract, except for the Buyer-furnished data received by the Seller. The Seller grants to the Buyer the right to use the data delivered by the Seller hereunder solely for the purposes of the Contract and the Buyer's own use of the Work furnished by the Seller; provided that such data will not, without the prior written consent of the Seller, be disclosed or supplied in whole or in part to any third party or used in whole or in part for design, manufacture, re-procurement or any other purpose whatsoever. Further, the Seller shall have no obligation to deliver any data, which is not otherwise specifically stated to be a deliverable under the Contract.

19. Patent Rights

The Seller shall indemnify the Buyer against all claims, actions or proceedings against the Buyer alleging the infringement of any Canadian patent existing as of the effective date of the Contract in respect of any supplies or designs or parts thereof (the "items") furnished by the Seller under the Contract; provided the Seller is given prompt written notice of such claim by the Buyer and given authority and such assistance and information as is available to the Buyer for resisting or for the defense of such claim. In the event of such action or proceeding, the Seller at its expense and option may: (a) secure for the Buyer the right to use the item; or (b) replace the item; or (c) modify the item; or (d) take back the item and refund the Contract price therefore less a reasonable sum for use, damage and obsolescence. The foregoing indemnity shall not apply to any infringement resulting from items manufactured to detailed designs furnished by the Buyer, an item furnished by the Buyer or from a modification or addition by other than the Seller to the items after delivery. The Seller shall not be bound by any settlement of any charge or infringement made by the Buyer without the Seller's written consent.

20. Limitation of Liability

NOTWITHSTANDING ANY OTHER PROVISION OF THE CONTRACT, THE SELLER'S TOTAL LIABILITY RESULTING FROM OR IN CONNECTION WITH THIS CONTRACT SHALL NOT EXCEED THE AGGREGATE SUM PAID TO THE SELLER IN PERFORMING THE WORK UP TO THE CONTRACT PRICE. IN NO EVENT WHATSOEVER SHALL THE SELLER BE LIABLE FOR INDIRECT OR CONSEQUENTIAL DAMAGES OR FOR LOSS OF USE OR LOSS OF PROFIT ARISING TO THE BUYER OR ANY THIRD PARTIES AND THE BUYER HEREBY AGREES TO INDEMNIFY AND SAVE HARMLESS THE SELLER FROM ANY CLAIMS WITHOUT LIMITATION. HOWEVER, SELLER DOES NOT EXCLUDE OR LIMIT ITS LIABILITY (IF ANY) TO THE BUYER: FOR DEATH OR PERSONAL INJURY RESULTING FROM SELLER'S NEGLIGENCE; FOR ANY MATTER FOR WHICH IT WOULD BE ILLEGAL FOR SELLER TO EXCLUDE OR LIMIT OR TO ATTEMPT TO EXCLUDE OR LIMIT ITS LIABILITY; OR FOR FRAUD.