

FCT ELECTRONICS, LP

Purchase Order Terms And Conditions



"Buyer" in this contract is assumed to be FCT Electronics, LP

1. DELIVERY AND ACCEPTANCE: The time of delivery stated is of the essence of this contract. The date specified for delivery is the required date at the buyer's plant, unless otherwise specifically noted hereon. FCT Electronics, LP reserves the right to refuse any goods or services and to cancel all or any part thereof stated if Seller fails to deliver all or any part of any goods or perform all or any part of any services in accordance with the Terms specified herein. If Seller's deliveries will not meet agreed schedules, Buyer may require Seller to ship via a more rapid route or carrier in order to expedite such delivery and any difference in cost caused by such change shall be paid by Seller provided nevertheless, that such right shall be in addition to any other rights and remedies of Buyer. Acceptance of any part of the order shall not bind the buyer to accept future shipments or performance of services nor deprive it of the right to return goods already accepted and shall not be deemed to be a waiver of Buyer's right to cancel or return all of any part of the goods because of failure to conform to order or by reason of defects, latent, or patent, or of other breach of warranty, or to make any claim or damages, included manufacturing cost of loss of profits, injury to reputation or other special consequential and incidental damage occasioned by the buyer. Such rights shall be in addition to any other remedies provided hereunder or provided by law or otherwise. Delivery shall not be deemed to be complete until goods have been actually received and accepted by the buyer, notwithstanding delivery to any carrier or until any services have been performed, received and accepted.

2. PACKING AND SHIPPING: The goods purchased hereunder must be suitably packed and prepared for shipment to secure the lowest transportation rates or appropriately packed to comply with any specific transportation specifications of Buyer, and in all cases, to comply with carriers' regulations. All charges for packing, crating are included in the price for the goods set forth herein and will be paid by Seller except as otherwise specifically stated on purchase order. A Packing List shall accompany each box for package shipment, showing the order number specified hereon as well as the item number and a description of the goods. In the event that no such Packing List accompanies any shipment, the count or weight or other measure of Buyer shall be final and conclusive. FCT Electronics, LP accepts 0% short shipments and 0% over shipments. Any authorized exceptions will be provided by FCT Electronics, LP in writing.

3. PAYMENT: The original and one copy of a Bill of Lading or comparable shipping document must accompany Seller's invoices. Payment of such invoices shall be subject to a pro rata adjustment by Buyer for any shortage in the goods shipped or defective goods rejected by Buyer or for any failure to perform services or defective performance thereof. Any discount period shall be calculated from the date of receipt by Buyer of an appropriate invoice.

4. WARRANTIES: Seller represents and warrants (1) that the prices charged for the goods and/or services purchased pursuant hereto shall be no higher than Seller's current price to any other customer for the same quality and quantity of such goods or services, (2) that all goods delivered pursuant hereto will be new, unless otherwise specified and free from defects in material and workmanship, that all goods will conform to applicable specifications, drawings, and standards of quality and performance and that all items will be free from defects in design and suitable for their intended purpose, (3) that the goods covered by this order are fit and safe for consumer use, if so intended, (4) that all services performed pursuant hereto will be free from defects in material and workmanship and will be performed in accordance with the specifications and instructions of Buyer provided nevertheless that Seller shall retain discretion and control with respect to the manner and means of performing such services and shall at all times remain an independent contractor. All the representations and warranties of Seller together, with its service warranties and guarantees, if any, shall run to Buyer and Buyer's customers. Seller agrees to indemnify and hold Buyer harmless from all claims, liability, loss, damage and expense including special consequential and incidental damages incurred or sustained by Buyer by reason or any breach of any warranty with respect to the goods or services which are purchased in accordance herewith. All goods supplied and services performed pursuant hereto shall be subject to inspection and test by Buyer and its agents and by the United States at all times and places, whether during or after manufacture as to goods, or performance as to services, and notwithstanding the terms of delivery or payment or, as to goods, that title has not yet passed to Buyer or to the United States in the event that goods supplied pursuant hereto or services performed hereunder contain defects in material or workmanship or, as to services, are not performed in accordance with the specifications and instructions of Buyer. Buyer may require prompt correction thereof or, as to services, require that the services be rendered again at Seller's expense or, as to goods, require that the goods be replaced at Seller's expense. If such defects exist or if Seller's unable or refuses to replace the goods or render the service again promptly, Buyer may be contract or otherwise replace such goods or obtain such services and charge Seller or deduct from amounts owed by Buyer to Seller the costs, expenses and losses including incidental and consequential damages incurred thereby which are in excess of Seller's price for such goods or services. After notification to Seller that goods are defective, all risk of loss with respect to such goods shall be in Seller and Seller shall pay all packing and shipping charges in connection with defective goods returned by the Buyer. Buyer's approval of design furnished by Seller shall not relieve Seller of its obligations herein. The goods covered by this order are intended for the manufacture and sale of Buyer's established products in which Buyer has built a substantial and valuable reputation for quality and efficiency and any defect in the goods hereunder may occasion special damage to Buyer. All rights and remedies of the Buyer hereunder shall be in addition to any other remedies provided by law.

5. CHANGES: Buyer may at any time by written or telegraphic notice make changes within the general scope of this order in any one or more of the following:

- a. Drawings, designs, or specifications;
- b. Method of shipment or packing;
- c. Quantities
- d. Delivery schedules;
- e. Place of Delivery; and
- f. Instructions with respect to the rendition of services

If any such change increases or decreases the cost of, or the time required for the performance of the order, an equitable adjustment in the price and/or delivery schedule will be made and set forth in a written modification to this order. Any claim for adjustment by Seller under this clause must be made within seven (7) days from the date of receipt of the written notification of the change.

6. TAXES: Federal, state or local taxes which are property billable to Buyer shall be stated separately in Seller's invoices. All tax exemption certificates will be accepted by Seller.

7. TOOLING: In the case of tools, dies, jigs, fixtures, patterns, equipment or other facilities of Buyer which may be in the possession of Seller in connection with this order, Seller agrees that his responsibility shall be that of a bailee and that he shall indemnify and hold harmless Buyer from any lost or damage thereto which is caused by or as a result of negligence, act or omission on the part of Seller or its agents, employees or others until such time as such facilities are delivered into the possession of Buyer. With respect to such facilities, Seller will make and affix such markings thereon as Buyer may direct, make no changes, modification or alteration thereto without Buyer's written consent, make no use thereof, except in the production of material ordered by Buyer. If Seller acquires tools or manufactures them in connection with this order and changes Buyer for the use thereof or a tool service charge in connection therewith, Buyer may at its option upon completion or termination of this Purchase Order, elect to take title to such tools and upon receiving notice of such election Seller will deliver such tools to Buyer upon payment by Buyer to Seller of that portion of the cost of such tools which was incurred by Seller at its expense.

8. RESPONSIBILITY FOR PROPERTY: Any property of Buyer or of the United States which in connection with this Purchase Order is in the possession or control of Seller or Seller's subcontractors, vendors or agents shall be returned to Buyer in the condition in which it was received by Seller, except for ordinary wear and tear and except to the extent that such property has been incorporated into goods delivered hereunder or has been consumed in the production of such goods. Risk of loss with respect to all such property shall be in Seller.

9. INSURANCE: Seller agrees. If and when requested by Buyer to procure a policy or policies of insurance in form satisfactory to Buyer including endorsement specifically naming Buyer as an insured, insuring all property of Buyer or the United States which is connected with this order and of which Seller has care, custody, control or the right of control against loss or damage resulting from fire, including extended coverage, malicious mischief and vandalism. Satisfactory evidence of such insurance shall be submitted to Buyer within a reasonable period of time after request. Seller shall furnish certificates of insurance prior to start of work on Buyer's or its customer's premises and indemnify Buyer against all loss, damage, or liability arising hereunder and work will be performed only in accordance with safety rules and procedures while on the premises.

10. ASSIGNMENTS: This Purchase Order is not assignable and shall not be assigned by Seller without the prior written consent of Buyer.

11. USE OF DESIGNS, DATA, ETC.: Seller agrees that it will keep confidential the features of any equipment, tools, gauges, patterns, designs, drawings, engineering data or other technical or proprietary information furnished by Buyer and use such items only in the production of items under this order or other orders from Buyer and not otherwise, unless Buyer's written consent is first obtained. Upon completion or termination of this order Seller shall return all such items to Buyer or make such other disposition thereof as may be directed or approved by Buyer.

12. TERMINATION: Buyer may by written notice to Seller terminate the whole or any part of this order if: Seller fails to perform any provisions of this order or so fails to make progress as to endanger performance of this order in accordance with its terms or Seller becomes insolvent or the subject of proceedings under any law relating to bankruptcy or the relief of debtors or admits in writing its liability to pay its debts as they become due. If this order is so terminated, Buyer may procure or otherwise obtain, upon such terms and in such manner as Buyer may seem appropriate supplies or services similar to those terminated. Seller,

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subject to the exceptions set forth below, shall be liable to Buyer for any excess costs of such similar supplies or services. Seller shall transfer title and deliver to Buyer in the manner and to the extent requested in writing to Buyer at or after termination such complete articles, partially completed articles and materials, parts, tools, dies, patterns, jigs, fixtures, plans, drawings, information and contract rights as Seller has precluded or acquired for the performance of the terminated part of this order, and Buyer will pay Seller the contract price for completed articles delivered to and accepted by Buyer and the fair value of the other property of Seller so requested and delivered. Seller shall continue performance of this order to the extent not terminated. Buyer shall have no obligations to Seller in respect of the terminated part of this order except as herein provided. Buyer's rights as set forth, herein shall be in addition to Buyer's other rights in case of Seller's default, whether set forth in this order or not.

13. DEFAULT BEYOND CONTROL: Seller shall not be liable for damages or for default due to causes beyond Seller's control and without Seller's fault or negligence, provided Seller exercises due diligence in promptly notifying Buyer of conditions which will result in delay and provided further that such causes are beyond the control of both Seller and sub-contractor or supplier and without the fault of negligence of either of them and the supplies or services to be furnished by the sub-contractor or supplier were not obtainable from other sources.

14. NON-WAIVER OF RIGHTS: The failure of Buyer to insist upon strict performance of any of the items and conditions in the Purchase Order or to exercise any right or remedies, shall not be construed as a waiver of its rights to assert any of same or to rely on any such terms and conditions at any time thereafter.

15. ENTIRE AGREEMENT: This Purchase Order is intended by the parties as a final expression of their agreement and also is a complete and exclusive statement of the terms thereof, any prior oral or written agreements as to the same subject matter notwithstanding. This contract may not be modified or terminated orally and no modification nor any claimed waiver of any of the provisions hereof shall be binding unless in writing and signed by the party against whom such modification or waiver is sought to be enforced.

16. HEADINGS: The headings at the beginning of each numbered section hereof have been inserted for ease of reference only and are not part of this contract.

17. GOVERNING LAW: This agreement shall be governed by the laws of the State of Connecticut USA.

