

**MEGA CIRCUIT INC.**  
**TERMS AND CONDITIONS OF PURCHASE**

1. **TERMS AND ACCEPTANCE.** It is a condition of this order that any provisions printed or otherwise contained in any acknowledgement hereof which are inconsistent with or in addition to the terms and conditions herein stated, and any alteration of this purchase order, shall have no force or effect, and that Seller by such acknowledgement thereby agrees that any such provisions therein or any such alterations of this order shall not constitute any part of this contract of purchase and sale. If the terms on this order do not agree with Seller's invoice, Seller agrees that Buyer may change the invoice to conform to this order and make payment accordingly.
2. **ALL MATTERS** pertaining to this order to be handled with buyer's Purchasing Department only.
3. **ACKNOWLEDGE** receipt promptly, giving definite date of delivery.
4. **ALL INFORMATION** in regard to part number and order number must be shown on invoice and packing slips as requested on face of order.
5. **PAYMENT DISCOUNT**--Payment Discount will be computed from date of receipt of correct invoices or acceptance of material, whichever is later.
6. **ANY ACKNOWLEDGMENTS** which take exceptions to the terms as specified on the face of this order, and on the back of this order, will not be considered as binding upon Buyer unless such changes are agreed to by Buyer in writing. Please contact the buyer when taking these exceptions.
7. **NO CHARGES** for crating or boxing will be allowed, unless specified on the face of this order.
8. **SELLER AGREES** on materials that prove defective to credit to Buyer incoming transportation charges (if material was shipped F.O.B. Seller's plant), and also to assume and pay transportation charges covering the return of the material to Seller.
9. **PAYMENT.** Invoices shall be mailed to Buyer's Accounting Department when items are shipped. The time for payment of Seller's invoices shall commence with the date of actual receipt of items in complete accordance with the requirements of this order. Any failures by Seller to comply with the requirements of this order may result in an adjustment of the invoice price by Buyer before payment
10. **PAYMENT NOT CONSTITUTING ACCEPTANCE.** Payment for any item on this Purchase Order shall not constitute approval or acceptance of such material by Buyer and Buyer's right of inspection shall survive payment. Seller shall repay Buyer the purchase price of any material found to be defective, not conforming to specifications, samples or not shipped in accordance with Buyer's delivery schedule and returned to Seller. Buyer may elect to retain rejected material and remedy any defects or non-conformity to specifications or samples. Cost of affecting such remedy shall be negotiated between parties and the price to be paid by Buyer shall be adjusted accordingly.
11. **BUYER** will not accept overruns or underruns unless such overruns and underruns are agreed to by the Buyer in writing.

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12. SHIPPING. Seller shall forward to Buyer, with the invoice, the express receipt or bill of landing, signed by the carrier, evidencing the fact that shipment has been made. Each package shall be accompanied by an itemized packing list, and both the package and the accompanying packing list shall show this order number. No charges shall be allowed Seller for packaging, delivery, or similar costs, unless expressly authorized herein. All items shall be suitably prepared for shipment to secure the lowest transportation and insurance rates.
13. INVOICING. Individual invoices must be rendered for each shipment. Invoices must show the date shipment was made and the shipping point. Packing ticket numbers must be shown on each invoice. Invoices should be mailed not later than the day after shipments are made. Invoices covering final shipment against this Purchase Order must show when you consider orders as shipped complete.
14. WARRANTY. The Seller warrants that at the time of delivery thereof the supplies provided for under this Purchase Order will be merchantable, free from any defects in material or workmanship, and will conform to the requirements of this Purchase Order. Notice of any such defects or non-conformance shall be given by the Buyer to the Seller within one (1) year of the delivery of such supplies. If required by the Buyer, the Seller shall promptly correct or replace the defective or non-conforming supplies. Shipping cost from Buyer's plant to Seller's plant and return shall be borne by the Seller. The warranty shall then continue as to the corrected and replacing supplies until one (1) year after the date of their delivery. If the Buyer does not require correction or replacement, the Seller shall repay such portion of the purchase order price of said supplies as is equitable under the circumstances.
15. CANCELLATION BY BUYER. Buyer reserves the right to cancel this Purchase Order, or any part thereof, at any time, even though the Seller is not in default hereunder, by giving written notice to Seller. In the event of such cancellation, Buyer shall pay for all goods and services delivered and completed and an equitable settlement shall be arrived at for cost incurred by Seller of goods and materials in process not to exceed the aggregate committed quantity and/or price specified in this Purchase Order. Upon receipt of any notice of cancellation hereunder, Seller shall, unless otherwise directed, immediately discontinue all work in progress and immediately cancel all orders or subcontracts given or made pursuant to this Purchase Order. Exercise by Buyer of the rights of cancellation reserved in this Paragraph shall give rise to no liability on the part of the Buyer except as specified in this paragraph and shall not have the effect of waiving damages the Buyer might otherwise be entitled to.
16. IF THE SELLER'S DELIVERIES are so far behind the given schedule that the Buyer finds it necessary to call upon the Seller for express shipments, Seller will allow Buyer the difference between freight and express rate.
17. THE SELLER will indemnify and hold harmless the Buyer against any and all liabilities whatsoever for damages and/or injuries which may be incurred by the Buyer by virtue of defective material or workmanship in the articles or materials supplied hereunder.

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18. SELLER GUARANTEES that the sale or use of products covered by this purchase order will not infringe any United States patents and undertakes to indemnify Buyer against all judgments, decrees, costs and expenses resulting from any alleged infringement provided Buyer shall promptly notify Seller in the event that any claim for infringement is asserted against it, and shall tender to Seller the defense of any action, and Seller covenants that it will, upon the request of Buyer and at Seller's own expense, defend or assist in the defense of any suit or action which may be brought against Buyer or those selling or using any product of Buyer by reason of any alleged infringement of any United States patent in the sale or use of Seller's products; provided, however, that the provisions of this paragraph shall not apply to products manufactured according to Buyer's blueprints and specifications.
19. BUYER-OWNED PROPERTY. Unless Buyer and Seller otherwise agree in writing, the following provisions shall apply to any tools, tooling patterns, equipment, materials, or other properties used in the manufacture of goods for Buyer or in the performance of this Purchase Order, that are either supplied to Seller by Buyer, or have been acquired by Seller and specifically paid for by Buyer. All such properties shall hereafter be referred to as Buyer-owned:
- (a) Seller shall have the right to use Buyer-owned property without payment for usage as required in the performance of this Purchase Order or other work for Buyer but shall not use Buyer-owned property in the performance of any other work without prior written approval of the Buyer. Title to all Buyer-owned property shall at all times remain with Buyer. Title to such property which is procured or manufactured by Seller for Buyer shall be fully vested in Buyer upon payment for same by Buyer.
  - (b) Seller shall take necessary measures to preserve Buyer's title to Buyer-owned property, free of all encumbrances. Buyer retains the right, in addition to other rights provided by law, to enter Seller's premises to remove Buyer-owned property with or without a court order.
  - (c) Seller shall, on written request of Buyer, properly pack and ship Buyer-owned property to such destination as designated by Buyer.
  - (d) Seller shall, at its expense, perform all maintenance work, repairs, and replacements necessary with respect to applicable Buyer-owned property so that such property remains suitable for the use intended.
  - (e) The risk of loss or damage to all Buyer-owned property shall be with the Seller from the time such property is delivered to Seller until that property is removed from Seller's place of business as directed by Buyer in writing. Proof of adequate insurance coverage on Buyer-owned property shall be provided to Buyer by Seller upon written request of Buyer.
  - (f) Buyer shall not be liable for loss, damage, detention, or delay resulting from causes beyond its control with respect to any Buyer-owned property to be delivered to Seller by Buyer.
  - (g) Seller shall assume and shall indemnify Buyer against any and all liability for damaged property or injury to or death of any persons arising from, incidental to the presence of, or use of Buyer-owned

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property, whether such damage, injury or death is caused by defects in the property, negligence in the use thereof, or otherwise.

(h) Buyer shall, upon receipt of written request provide Buyer with a current listing of Buyer-owned property in its or its subcontractor's possession, indicating complete descriptions, quantities, and property condition.

**20. DEFAULT.**

(a) Buyer may, subject to the provisions of paragraph (c) below, by written notice of default to Seller, terminate the whole or any part of this order (i) If Seller fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or (ii) If Seller fails to perform any of the other provisions of this order, or so fails to make progress as to endanger performance of this order in accordance with its terms and in either of these two circumstances does not cure such failure within a period of 10 days (or such longer period as Buyer may authorize in writing) after receipt of notice from Buyer specifying such failure.

(b) In the event Buyer terminates this order in whole or in part as provided in paragraph (a) of this Article, Buyer may procure, upon such terms and in such manner as it may deem appropriate, supplies or services similar to those so terminated, and Seller shall be liable to Buyer for any excess costs for such similar supplies or services; Provided, that Seller shall continue the performance of this order to the extent not terminated under the provisions of this Article.

(c) Except with respect to defaults of subcontractors. Seller shall not be liable for any excess costs if the failure to perform the order arises out of causes beyond the control and without fault or negligence of Seller, Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of Buyer or acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Seller, If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both Seller and subcontractor and without the fault or negligence of either of them, Seller shall not be liable for any excess costs or other damages for failure to perform unless the supplies or services to be furnished by the subcontractor were obtained from other sources in sufficient time to permit Seller to meet the required delivery schedule.

**21. OCCUPATIONAL SAFETY & HEALTH ACT.** All items supplied under the terms of this Purchase Order shall be certified by Seller to be in compliance with requirements and standards of the Occupational Safety & Health Act of 1970. In addition, where required, hazardous material data sheets will be supplied on all applicable products.

**22. COMPLIANCE WITH LAWS.** Seller shall comply with, and upon request of Buyer furnish certificates of compliance with all Federal, State, and local laws, rules and regulations that may be applicable to this order.

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23. TAXES - FEDERAL, STATE AND LOCAL. The parties agree that the price or prices stated herein include all applicable taxes and that the price or prices will not be changed hereafter as the result of failure to include therein any applicable tax or as the result of any change in Seller's tax liabilities. Upon request of Seller, Buyer will furnish tax exemption certificates or other evidence of exemption when such certificates or other evidence of exemption are authorized and will be accepted by the appropriate taxing authorities.
24. IT IS UNDERSTOOD AND AGREED that there is no verbal understanding or agreement between Buyer and Seller other than the conditions stated in this order.
25. IT IS UNDERSTOOD AND AGREED that in the event Seller does not acknowledge receipt and acceptance of this order, any delivery made hereunder shall constitute an acceptance by Seller of the terms and conditions hereof.
26. WAIVERS. Failure of Buyer or Seller to insist on performance of any of the terms and conditions or requirements of this Purchase Order shall not be construed as a waiver of such terms, conditions or requirements and shall not affect the right of either party thereafter to enforce each and every term, condition, or requirement hereof.
27. REMEDIES. No remedy herein provided shall be deemed exclusive of any other remedy allowed by law.
28. NON DISCRIMINATION IN EMPLOYMENT: In accepting this contract the Vendor agrees to be bound by and fully implement the requirements of Executive Orders 11246 and 11375 and any future Executive orders or Regulations, which prohibit discrimination based on race, creed, color, national origin, sex or age, as well as maintenance of non-segregated facilities pursuant to Executive Order 11246 and the provision of Part 60-2 of Title 41 of the Code of Federal Regulations, and requires affirmative action of full implementation.