



Purchase Order Terms and Conditions

1. ACCEPTANCE AND GOVERNING LAW: Signing and returning the acknowledgement document of the Purchase Order (if included herewith) or in any event of Seller's commencement of work on the products subject to this purchase order or shipment of such products shall constitute acceptance of this purchase order. Any acceptance of this purchase order is limited to acceptance of the express terms contained on the face of any purchase order submitted by Buyer and those terms contained herein. Any proposal for additional or different terms or any attempt by Seller to vary in any degree any of the terms of any Buyer's purchase order or the terms contained herein is hereby objected to and rejected and this offer shall be deemed accepted by Seller without said additional or different terms. This Purchase Order and any Agreement formed hereunder, shall be governed by, and construed under the internal laws of the State of California, without regard to principles of conflict of law, as the same may be from time to time in effect, including, without limitations the Uniform Commercial Code as in effect in the State of California.

2. DELIVERY AND TITLE: Time is of the essence of this Agreement and if delivery of items or rendering of services is not completed by the time promised, Buyer reserves the right, without liability in addition to its other rights and remedies, to terminate this Agreement by notice effective when received by Seller as to items not yet shipped or services not yet rendered and to purchase substitute items or services elsewhere and charge Seller with any loss incurred. The products sold hereunder shall be delivered to the location specified on the face of the Purchase Order. Title to the products sold hereunder, along with the risk of loss or damage, shall remain with Seller and shall not pass to Buyer until the products are delivered to the location specified on the face of the Purchase Order. Seller shall be liable for loss or damage from late delivery or non-delivery, of all or any part of the products sold hereunder.

3. PACKAGING AND SHIPMENT: All supplies provide under this Order shall be suitably prepared and packed for shipment so as to assure safe delivery, the lowest transportation rates, and to meet carrier's requirements unless otherwise stipulated in the Order. No charge shall be allowed for packing, crating, or carriage unless stated in the Order. Each container shall be clearly marked to show Buyer's Order Number. A Packing sheet showing Order Number must be included in each container or single unit of shipment, or with each truckload shipment. If in order to comply with Buyer's required delivery date it becomes necessary for Seller to ship by a more expensive way than specified in this purchase order, any increased transportation costs resulting therefore shall be paid for by Seller unless the necessity for such rerouting or expedited handling has been caused by Buyer.

4. QUALITY CONTROL, INSPECTION AND ACCEPTANCE: Seller shall establish and maintain a quality control system acceptable to Buyer for the Products purchased under this Agreement. If any inspection or test is made on Seller's or its subcontractor's premises, Seller or Seller's subcontractor, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of inspectors of Buyer and Buyer's customers. Products rejected and supplied in excess of quantities ordered may be returned to Seller at its expense and, Buyer may charge Seller all expenses of unpacking, examining, repacking, and reshipping. All Item(s) are also subject to final inspection and acceptance at Buyer's plant or other specified place of delivery notwithstanding any payments or other prior inspections.



5. CHANGES: Buyer shall have the right at any time to make changes in drawings, designs, specifications, materials, packaging, time and place of delivery and method of transportation. If any such change, cause an increase or decrease in the cost, or the time required for the performance, an equitable adjustment shall be made and this agreement shall be modified in writing accordingly. Seller shall use Reasonable Effort to comply with such direction as soon as possible following written notice of such direction.

6. WARRANTY: Seller expressly warrants that all products or services furnished under this agreement shall conform to all specifications and appropriate standards, will be new, and will be free from defects in material or workmanship. Seller warrants that all such products or services will conform to any statements made on the containers or labels or advertisements for such products, or services, and that any products will be adequately contained, packaged, marked and labeled. Seller warrants that all products or services furnished hereunder will be merchantable, and will be safe and appropriate for the purpose for which products or services of that kind are normally used. If Seller knows or has reason to know the particular purpose for which Buyer intends to use the products or services, Seller warrants that such products or services will be fit for such particular purpose. Seller warrants that products or services furnished will conform in all respects to Buyer specification. Inspection, test, acceptance or use of the products or services furnished hereunder shall not affect the Seller's obligation under this warranty, and such warranties shall survive inspection, test, acceptance and use. Seller's warranty shall run to Buyer, its successors, assigns, customers, and users of products sold by Buyer for a period of twelve (12) months after delivery to Buyer. Seller agrees to replace or correct defects of any products or services not conforming to the foregoing warranty promptly, without expense to Buyer, when notified of such nonconformity. In the event of Seller failure to correct defects or replace nonconforming products or services promptly, Buyer, after reasonable notice to Seller, may make such corrections or replace such products and services and charge Seller for the cost incurred by Buyer in doing so.

7. TERMINATION FOR CONVENIENCE: Buyer reserves the right to terminate this order or any part hereof for its sole convenience. In the event of such termination, Seller shall immediately stop all work hereunder, and shall immediately cause any of its suppliers or subcontractors to cease such work. Seller shall be paid a reasonable termination charge consisting of a percentage of the order price reflecting the percentage of the work performed prior to the notice of termination, plus actual direct costs resulting from termination. Seller shall not be paid for any work done after receipt of the notice of termination, or for any costs incurred by Seller's suppliers or subcontractors which Seller could reasonably have avoided.

8. TERMINATION FOR CAUSE: Buyer may terminate this order or any part hereof for cause in the event of any default by the Seller to comply with any of the terms and conditions of this Agreement. Late deliveries, deliveries of products which are defective or which do not conform to this order, and failure to provide Buyer, upon request, reasonable assurances of future performance shall all be causes allowing Buyer to terminate this order for cause. In the event of termination for cause, Buyer shall not be liable to Seller for any amount, and Seller shall be liable to Buyer for any and all damages sustained by reason of the default which gave rise to the termination.

9. FORCE MAJEURE: A party is not liable for failure to perform the party's obligations if such failure is as a result of: (a) acts of God or of the public enemy; (b) acts of the Government in either its sovereign or contractual capacity; (c) fires; (d) floods; (e) epidemics; (f) quarantine restrictions; (g) strikes; (h) freight embargoes; (i) unusually severe weather; and (j) earth quake.



No party is entitled to terminate this Agreement under Clause 8 (Termination) in such circumstances.

If a party asserts Force Majeure as an excuse for failure to perform the party's obligation, then the nonperforming party must prove that the party took reasonable steps to minimize delay or damages caused by foreseeable events, that the party substantially fulfilled all non-excused obligations, and that the other party was notified within ten (10) days of the likelihood or actual occurrence of an event described in Clause 9 (Force Majeure). In all cases, Seller shall use reasonable efforts to avoid or minimize all such failures, including exercising work-around plans or obtaining the Products from other sources.

10. PROPRIETARY INFORMATION, CONFIDENTIALITY AND ADVERTISING:

Seller shall consider all information furnished by Buyer to be confidential and shall not disclose any such information to any other person, or use such information itself for any purpose other than performing this Agreement, unless Seller obtains written permission from Buyer to do so. This paragraph shall apply to drawings, specifications, or other documents prepared by Seller for Buyer in connection with this order. Seller shall not advertise or publish the fact that Buyer has Agreement to purchase products from Seller, nor shall any information relating to the order be disclosed without Buyer's written permission. Unless otherwise agreed in writing, no commercial, financial or technical information disclosed in any manner or at any time by Seller to Buyer shall be deemed secret or confidential and Seller shall have no rights against Buyer with respect thereto except such rights as may exist under patent laws.

11. INTELLECTUAL PROPERTY: (i) Any copyrightable works, ideas, discoveries, inventions, patents, products, or other information (collectively "Intellectual Property") developed in whole or in part by or on behalf of Seller in connection with or relating to the Products shall be the exclusive property of Buyer. Upon request, Seller shall sign all documents and otherwise cooperate with Buyer as necessary to assign, confirm and perfect the exclusive ownership of all Intellectual Property rights in the Products to Buyer.

(ii). Seller agrees upon receipt of notification to promptly assume full responsibility for defense of any suit or proceeding which may be brought against Buyer or its agents, customers, or other vendors for alleged patent infringement, as well as for any alleged unfair competition resulting from similarity in design, trademark or appearance of products or services furnished hereunder, and Seller further agrees to indemnify Buyer, its agents and customers against any and all expenses, losses, royalties, profits and damages including court costs and reasonable attorney's fees resulting from any such suit or proceeding, including any settlement. Buyer may be represented by and actively participate through its own counsel in any such suit of proceeding if it so desires, and the costs of such representation shall be paid by Seller.

12. INSURANCE: In the event that Seller's obligations hereunder require or contemplate performance of services by Seller's employees, or persons under Agreement to Seller, to be done on Buyer's property, or property of Buyer's customers, the Seller agrees that all such work shall be done as an independent contractor and that the persons doing such work shall not be considered employees of the Buyer. Seller shall maintain all necessary insurance coverage's, including public liability and Workman's Compensation insurance. Seller shall indemnify and save harmless and defend Buyer from any and all claims or liabilities arising out of the work covered by this paragraph.

13. INDEMNIFICATION AND LIMITATION OF LIABILITY: Seller shall defend, indemnify and hold harmless Buyer against all damages, claims or liabilities and expenses (including reasonable attorney's fees) arising out of or resulting in any way from any defect in



the products or services purchased hereunder, any breach of the terms and conditions of this order, or from any act or omission of Seller, its agents, employees or subcontractors. This indemnification shall be in addition to the warranty obligations of Seller. In no event shall either Buyer or Seller be liable to the other for indirect, special, incidental or consequential damages for its acts or omissions hereunder. Excluded from the limitation of liability shall be any claims based upon (a) willful misconduct or fraud or negligence; (b) Seller's delivery of counterfeit items; (c) unauthorized disclosure of confidential information; (d) Seller's insurance obligations; (e) Seller's indemnification for intellectual property infringement; and (f) violation of law.

14. CONFLICT MINERALS: Seller has read and acknowledged Buyer's "Conflict Mineral Policy" and "Supplier Code of Conduct." Seller shall not provide any tantalum, tin, tungsten or gold or their derivative metals or minerals (the "conflict minerals") mined from Democratic Republic of the Congo, Angola, the Republic of the Congo, Uganda, Rwanda, Burundi, Tanzania, Zambia, South Sudan and the Central African Republic (the "covered countries") where such conflict minerals directly or indirectly finance or benefit illegal armed groups. Seller will cooperate with Buyer's request for evidence of Seller's due diligence performed in compliance with this provision for the products and lots received and for additional information on smelter sourcing as may be required to meet Buyer customer requirements.

15. COUNTERFEIT PARTS AVOIDANCE: In order to mitigate counterfeit parts entering the supply chain, the seller must fill this purchase order using only parts from the Original Component Manufacturer (OCM)/Original Equipment Manufacturer (OEM) or authorized distributors. Independent distributors, brokers, or other secondary sources shall not be used for items on this purchase order. If counterfeit parts are furnished under this purchase order, such items shall be impounded. The seller shall promptly replace such items with items acceptable to Buyer, and the seller shall be liable for all costs relating to impoundment, removal, and replacement.

16. TAXES: All duties and taxes payable in the country of manufacture and due under the laws of that country shall be borne by Seller. Seller is liable for and shall pay all taxes, impositions, charges and exactions imposed on or measured by this Agreement except those Buyer specifically agrees or is required by law to pay and which are separately stated. Prices shall not include any taxes, impositions, charges and exactions for which Buyer has furnished an exemption certificate.

17. PRICES, INVOICES AND PAYMENT. Seller warrants that the prices for the articles sold hereunder are not less favorable than those currently extended to any other customer for the same or similar articles in similar quantities. In the event Seller reduces its price for such article during the term of this order, Seller agrees to reduce the prices hereof correspondingly. Seller warrants that prices shown on this purchase order shall be complete, and no additional charges of any type shall be added without Buyer's express written consent. Such additional charges include, but are not limited to; shipping, packaging, labeling, custom duties, taxes, storage, insurance, boxing and crating. Unless otherwise authorized by Buyer's Authorized Procurement Representative, Seller shall issue a separate original invoice for each delivery of Products that shall include Buyer's Order number and line item number. Seller shall forward its invoice to the address specified on the purchase order. Unless freight or other charges are itemized, Buyer may take any offered discount on the full amount of the invoice. Payment due date, including discount periods, shall be computed from the later of the scheduled delivery of Products date, the actual delivery of Products date or the date of receipt of a correct invoice. Payment shall be deemed made on the



date Buyer's check is mailed or payment is otherwise tendered. Seller shall promptly repay Buyer any amounts paid in excess of amounts due Seller.

18. ENTIRE AGREEMENT: This Agreement is intended by the Parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. No amendment or change of any kind shall be binding upon Buyer unless in writing and signed by an authorized representative of Buyer. The Parties acknowledge their understanding of all terms contained in this Agreement and all documents incorporated by reference.

19. ASSIGNMENT: Neither party may assign in whole or in part any of its rights and obligations under this Agreement without the prior consent of the non-assigning party; provided, that, either party shall be permitted to assign this Agreement, with prior written notice provided to the non-assigning party, if such assignment is part of a transaction involving the sale or transfer of substantially all of the assets of the assigning party provided that such assignment isn't to a Buyer competitor as reasonably determined by Buyer. Any unauthorized assignment shall be deemed null and void. The terms and conditions of this Agreement shall bind any permitted successors and assigns of either party.

20. SET OFF: All claims for money due or to become due from Buyer shall be subject to deduction or set off by the Buyer by reason of any counterclaim arising out of this or any other transaction with Seller.

21. CODE OF BUSINESS CONDUCT AND ETHICS: The Seller and Buyer are committed to conduct operations ethically and in compliance with the laws of the United States and any other country in which they do business. This includes laws against commercial bribery, payments to government officials and money laundering, and compliance with local tax laws, import/export regulations, and laws governing the payment of applicable customs and duties.

22. EXPORT CONTROLLED TECHNICAL DATA: Unless specifically marked or written authorization is provided, all technical data (Drawings, Specification, Test procedures, etc) must be treated as Export Controlled and the following note applies to the technical data provided:
DOW-KEY MICROWAVE CORPORATION EXPORT CONTROLLED INFORMATION
This information is subject to the controls of the International Traffic in Arms Regulations (ITAR). This information shall not be provided to non-U.S. persons or transferred by any means to any location outside the United States without advanced permission from Dow-Key Microwave and approval from the United States Department of State.

23. SURVIVABILITY: It is hereby agreed that the Articles/Sections of this Agreement, 6 WARRANTY; 10 PROPRIETARY INFORMATION, CONFIDENTIALITY AND ADVERTISING; 11 INTELLECTUAL PROPERTY; 12 INSURANCE; 13 INDEMNIFICATION; 15 COUNTERFEIT PARTS AVOIDANCE; 21 CODE OF BUSINESS CONDUCT AND ETHICS; 22 EXPORT CONTROLLED TECHNICAL DATA; 23 SURVIVABILITY; 24 SEVERABILITY, and all remedies at law and equity including those expressly stated herein, shall survive the expiration or any termination of this Order, and that any termination of this Order shall not relieve either Party from its obligations which had arisen prior to the termination.

24. SEVERABILITY: If any term or condition of this Agreement is held invalid or unenforceable for any reason, the remaining provisions of this Order shall continue in full force and effect as if this Order had been executed with the invalid portion eliminated, provided the effectiveness of the remaining portions of this Order will not defeat the overall intent of the



parties. In such a situation, the parties agree, to the extent legal and possible, to incorporate a replacement provision to accomplish the originally intended effect.

25. ORDER OF PRECEDENCE. All documents and provisions in this Agreement shall be read so as to be consistent to the fullest extent possible. In the event of a conflict or inconsistency between the documents or provisions as incorporated into or attached to the Agreement, the documents or provisions shall prevail in the order listed below, with the first document or provision listed having the highest precedence:

Document Title/Description:

- a. The system generated purchase order document
- b. This Purchase Order terms and conditions
- c. Specifications (the most recently agreed to and issued version of specifications shall control and Buyer's specifications will prevail over any subsidiary documents referenced therein)
- d. All other attachments, exhibits, appendices, documents or terms incorporated by reference in or attached to this Agreement

26. GOVERNMENT CLAUSES. Government clauses applicable to this Agreement from Buyer's Agreement with its customer, if any, are incorporated in this Agreement by reference (see Purchase Order Terms And Conditions Addendum 1 located on the DowKey website).