

# Terms and Conditions of Purchase

## Best Circuit Boards, Inc. dba Lone Star Circuits

### 1. Contract

- a. The purchase of the products listed in the purchase order issued by Best Circuit Boards, Inc. dba Lone Star Circuits (LSC) (hereafter "Buyer") is expressly limited to, subject to and conditioned upon Seller's acceptance of the terms and conditions set forth herein (hereafter "Terms"). The Terms shall apply and are incorporated into every subsequent purchase order issued by Buyer to Seller. Buyer hereby objects and rejects any and all additional or different terms proposed by Seller, including, without limitation, Seller's standard printed terms and conditions on Seller's proposal, order acknowledgment, invoice or otherwise, unless specifically accepted in writing by Buyer.
- b. When accepted by Seller, this order shall constitute the entire contract between Seller and Buyer with reference to the products listed in the purchase order.
- c. None of the general terms and conditions contained in this Order may be added to, modified, superseded or otherwise altered except by written instrument signed by an authorized representative of the party against which such changes are sought to be enforced, and each shipment received by Buyer from Seller shall be deemed to be made only upon the general terms and conditions contained in this Order, notwithstanding any terms and conditions that may be contained in any acknowledgment, invoice or other form of Seller and notwithstanding Buyer's act of accepting or paying for any shipment or similar act of Buyer, except as otherwise indicated in this Order. By written instructions issued to Seller by an authorized representative of Buyer's Purchasing Department, Buyer may from time to time make changes, issue additional instructions, require additional Materials, or cancel Materials ordered hereunder. If any such change causes an increase or decrease in the cost of or the time required for the performance of this Order, an equitable adjustment shall be made in the price and/or delivery schedule, as applicable, and this Order shall be modified accordingly by written instrument signed by authorized representatives of Seller and Buyer.

### 2. Time, Delay or Non-Delivery

- a. Time is of the essence.
- b. Failure to deliver by the required delivery date specified in Buyer's Order may result in substantial damages to Buyer due to commitments to its customers. In addition to its other remedies, Buyer may cancel the Order in whole or in part without liability if delivery is not made within the time specified on the Order.
- c. If for any reason, Seller cannot or fails to deliver the products by the required delivery date specified in Buyer's Order, Seller shall be liable for any and all costs

Buyer incurs to have said products produced and delivered for the same delivery date specified in Buyer's Order.

- d. In the event that the Order is canceled due to Seller's delay in delivery, or if the Seller is no longer in a position to deliver the Order in accordance with the terms of the order, Buyer shall have, in addition to any and all other rights and/or remedies available to it at law or in equity, the right to charge Seller up to 5% of the total price of the Order.
- e. If, upon Seller's receipt of this Order or at any time thereafter, Seller finds that it cannot ship the Materials within the time specified in this Order, Seller shall so notify Buyer immediately by the fastest means possible and shall inform Buyer of Seller's earliest possible shipping date (the "Revised Shipping Date"). Buyer shall then have the option either to cancel all or any part of the Order or to accept the Order and Seller's Revised Shipping Date. Seller's failure to ship the Materials by the Revised Shipping Date shall entitle Buyer at Buyer's sole option to cancel all or any part of the Order upon notice to Seller without prejudice to any other rights Buyer may have in the Order or as a result of Seller's failure, or which may survive the termination of the Order.
- f. Unless otherwise specified herein, the Seller must deliver the full quantity of goods, or complete to the satisfaction of an authorized representative of Buyer, the full quantity of services, specified herein before any payment will become due from Buyer.
- g. In no event shall payment by Buyer be deemed to constitute Buyer's acceptance of Seller's Products.

### 3. Default

1. If Seller or its agents, employees or contractors breaches any provision hereof, Buyer shall have the right (without limiting any other rights or remedies which it may have hereunder or by operation of law) to terminate this Order upon written notice to Seller. Buyer's right to terminate this Order pursuant to this section shall not affect or be a waiver of any other rights and remedies Buyer may have in this Order or which may survive the termination of this Order. Buyer's right to require performance of any obligation hereunder shall not be affected by any previous waiver, forbearance or course of dealing by Buyer.

### 4. Delivery

- a. Premium Freight charges due to Seller's delay in delivery; or to Seller's: mis-description of freight terminology, mis-routing, and/or overdue or partial shipments (not including those authorized), will be paid by Seller upon notification of Buyer. The seller will follow Buyer's routing instructions as shown for all shipments.
- b. Shipment of Products shall be accompanied by a shipping notice or a packing slip describing the contents of each package or container showing weight, quantity and order number.

- c. Shipment charges invoiced to Buyer by Seller, or any third party shall be supported and accompanied by the original receipted bill of Seller's or such third party's shipper. All prices quoted in the Purchase Order will include the cost of insurance and shipping unless otherwise agreed to in writing by the Buyer.
- d. Seller shall show federal excise, state and or local taxes, if any, separately on invoice.
- e. Seller shall not substitute Materials or ship more than the quantity of materials ordered without express written authority from an authorized representative of Buyer's Purchasing Department. Otherwise, Buyer reserves the right to reject such Materials.
- f. The method of shipment and routing shall conform to Buyer's instructions; otherwise, any extra costs shall be borne by Seller. If not otherwise specified by Buyer, Seller shall ship Materials at the most economical prevailing means and rate consistent with safe and timely delivery of such Materials.
- g. Damage and/or loss resulting from improper packaging, preparation or loading shall be charged to Seller.

## 5. Title and Risk of Loss

- a. Regardless of F.O.B. terms of sale - title to and risk of loss shall pass, and acceptance of the Products shall take place only after such Products have been delivered to Buyer's specified destination and have passed Buyer's inspection and tests.
- b. Neither the Buyer's inspection nor failure to inspect shall relieve Seller of any obligations, representations or warranties hereunder.
- c. If the Products fail to conform to Buyer's specifications or are otherwise defective, Seller shall promptly replace same at Seller's sole expense.
- d. Any Products supplied hereunder shall be of good quality, free from any faults or defects and in conformance with this Order. All Products not conforming to these requirements, including substitutions not properly approved and authorized, shall be considered defective and Seller shall promptly correct such defective Products at Seller's sole expense.
- e. No payment for or acceptance of Products, including services, by Buyer hereunder shall constitute a waiver of any of the foregoing, nor shall anything herein contained be construed to exclude or limit any of Seller's warranties implied by law.

## 6. Non-Disclosure

- 1. If Buyer discloses or grants access to Seller to any research, development, technical, economic or other business information of a confidential or proprietary nature, whether reduced to writing or not, Seller agrees not to disclose such information to any person at any time without Buyer's prior written consent.

## 7. Warranties

1. Seller expressly warrants that (1) all Products will conform to plans, drawings, specifications or samples furnished by Buyer or furnished by Seller and approved and accepted by Buyer (it being understood that such plans, etc., are incorporated by reference and made a part hereof); (2) all Products will be of merchantable quality, fit and sufficient for the purpose ordered and will be free from defects, latent or patent, in material and workmanship; (3) all services will be performed in a workmanlike, efficient and safe manner and will conform to standards generally accepted in the trade or industry involved; and (4) Seller has clear title to the Products, and the Products are and will be free from any security interest, lien or encumbrance.

## 8. Indemnification

1. Seller shall indemnify, hold harmless and defend Buyer, its officers, agents, employees, parents, subsidiaries, successors and assigns against any loss, costs, liabilities, judgments, damage or expense including attorney's fees arising out of any claim or charge for personal injury, death or property damage asserted against Buyer due to any act, omission or negligence of Seller, its agents, employees or contractors or arising out of Seller's performance of this Order, or arising out of any breach or alleged breach of this Order or any representation or warranty made by Seller, its agents, employees or contractors. This indemnity shall apply without regard to whether the claim, damage, liability or expense is based on breach of contract, breach of warranty, negligence, strict liability or another tort. This indemnity shall survive delivery and acceptance of the goods or services.

## 9. Remedies and Inspection

1. If any of the goods or services are found within a reasonable time after delivery to Buyer to be defective in material or workmanship or otherwise not in conformity with the requirements of this order, Buyer, in addition to any other rights which it may have hereunder, at law or in equity, may at its option: (a) reject and return such goods at Seller's expense, in which event Seller shall either issue a full refund to Buyer for all monies paid to Seller or immediately replace such goods, depending upon the written instructions issued by Buyer so that the replacement products are delivered to Buyer by the required delivery date specified in Buyer's Order; or (b) upon notice to Seller, take such actions as may be required to cure all defects and/or bring the goods into conformity with all the requirements of this order, or procure replacement goods from an alternate Seller, and in any of the foregoing circumstances, any and all damages, costs and expenses incurred by Buyer in the exercise of its rights under this clause shall be promptly reimbursed by Seller. All rights and remedies of Buyer, whether provided by this order or by law shall be cumulative and may be exercised singly or concurrently.

2. Should the rejected material be received by LSC, it is the supplier's responsibility to contain all suspect product at LSC facility, any in-transit materials and any product at the supplier's facility. All product must be contained in an MRB area until disposition has been made by LSC. Should LSC deem it necessary to issue corrective action, the supplier will be emailed the corrective action in 8-D format to be completed by the supplier, by the due date on the supplied form. When the form is completed and signed by all team members of the supplier it must be emailed to the person at LSC that issued the corrective action.

## 10. Liens

1. Before final settlement of Seller's obligations and payment by Buyer, Seller shall satisfy Buyer of the payment and release of all debts, taxes, liens, claims, charges and obligations of Seller arising by operation of law, or otherwise, out of Seller's performance of this Order. Buyer may withhold without interest funds due Seller hereunder or otherwise sufficient to assure itself of the discharge of all such obligations, or to satisfy any provisions of law relating to any claims it may have against Seller arising from this Order.

## 11. Limitations and Damages Disclaimer

1. In no event shall Buyer be liable for any special, collateral, indirect, punitive, incidental, consequential or exemplary damages in connection with or arising out of this contract or the use of the Products provided to Buyer hereunder, regardless of whether Buyer has been advised of the possibility of such damages. No claim, suit or action shall be brought against Buyer more than one (1) year after the related cause of action has occurred.

## 12. Patent and Other Infringement

1. Seller shall indemnify Buyer and hold it harmless from and against any and all loss, liability or expense by reason of any claim or suit for alleged infringement of any copyright, trademark, patent, trade secret or other intellectual property resulting from or arising in connection with the manufacture, sale, normal use or other normal disposition of any Products furnished hereunder, or the performance of any work hereunder, and shall defend any such claim or suite and pay all costs and expenses incidental thereto; but at its option Buyer shall have the right to participate in the defense of any such claim or suit without relieving Seller of any obligations hereunder.

## 13. Cancellations

1. Buyer may cancel this order without penalty or payment of cancellation charges if Seller fails to make delivery as specified or fails to comply with any other provision of this order. Buyer may also cancel any unfilled portion of this order at any time without cause upon giving Seller written notice. On such notice, Seller shall immediately discontinue the work, thereafter, doing only such as may be necessary to preserve and protect work already in progress. Thereafter, Seller shall be entitled to compensation for its reasonable costs properly allocable to the cancellation but not for any profits for the portion of the order not performed.

## 14. Tooling

1. Any tooling for which Buyer is invoiced separately or the price for which is amortized into the item(s) price will become the property of Buyer, and title shall transfer to Buyer upon Buyer's payment. If Buyer decides to remove tooling from Seller's premises, the only additional charge to the Buyer will be for freight.

## 15. Force Majeure

1. Buyer may cancel all or any part of this Order that has not actually been shipped by Seller if Buyer's business is interrupted because of strikes, labor disturbances, fires, acts of God, or any other cause beyond the reasonable control of the Buyer. In the event Buyer invokes this section of the Terms, Buyer shall only be liable for payment of the part of the Order that has not actually been shipped by Seller.

## 16. Conflict of Conditions

1. Seller agrees that (1) any different terms or conditions in Seller's quotation or acknowledgment of this order are not binding on Buyer unless accepted in writing by Buyer; and (2) shipment of any Products or rendering of any services pursuant to this Order shall be deemed to constitute acceptance of the terms and conditions hereof. The seller's exceptions to these Terms, if any, shall be made in writing at the time of confirmation, and shall be subject to M.G.L. c.106§2-207. Buyer reserves the right to accept or reject any such exception in its sole discretion as described herein.

## 17. Headings

1. Headings in the contract are for purposes of reference only and shall not limit or affect the meaning hereof.

## 18. Entire Agreement and Amendments

1. These terms and conditions constitute the entire agreement between the parties and supersede all previous communications, whether oral or written.

## 19. Inspection

1. Seller agrees to permit the Buyer's inspectors to have access to the Seller's plant at all reasonable times for the purpose of inspecting any items set forth on this order or work in process for production of such items. All items are subject to final inspection and approval at Buyer's plant or other place as designated by Buyer. Such inspection shall be made within a reasonable time. After delivery, irrespective of the date of payment, Buyer may return rejected items at Seller's expense. Seller shall not replace items returned as defective unless so directed by Buyer in writing.

## 20. Quality Control System

1. Unless this Contract contains other quality requirements,
  - a. SELLER shall provide and maintain a quality control system to an industry-recognized quality standard for the Work covered by this Contract.
  - b. Records of all quality control inspection work by SELLER shall be kept complete and made available to LSC and its customers during the performance of this Contract and for such longer periods as may be specified.

## 21. Source Surveillance

1. In addition to inspections as otherwise provided in the Contract, and at no increase in Contract price, LSC may assign product assurance representatives to SELLER's facilities to conduct and maintain surveillance as necessary to ensure quality and reliability. SELLER, likewise, shall reserve such rights to LSC with respect to SELLER's lower-tier subcontractors. If such examination is made, SELLER shall provide, and require its subcontractors to provide, such representative with reasonable facilities, equipment, and unescorted access (except in areas where proprietary processes or data are located, in which case access shall be on an escorted basis) to all areas essential to the proper conduct of the above-described activity.

## 22. Notification of Changes

1. Seller is obligated and must inform LSC in writing of any and all changes to product, processes, suppliers, and facilities. In the event the changes or contemplated changes include non-conformities, Seller must adhere to original

specifications and seek written authorization from LSC for such as well as adhere to the remaining obligations as set forth in item 23.

## 23. Non-Conformity

1. Seller must notify LSC of any nonconforming product and/or materials used in making product. Should Seller wish to use a nonconformity it must seek in writing LSC's approval for non-conforming product disposition. In the event LSC does not approve nonconformity, Seller must adhere to original specifications as dictated by LSC or third party's issues requirements; Seller shall impound/contain non-conforming materials and not deliver further non-conforming product to LSC.
2. Additionally, Seller shall hold-harmless and fully reimburse LSC for any and all costs, fees, alternative procurement costs, damages (of any kind), and other charges LSC incurred as a result of the Seller's breach by using or continuing to use nonconformity without LSC's written consent (authorization may only be given in writing by LSC's President or Purchasing Manager). It is the responsibility of the Seller to flow down this requirement (as well as others in the contract) to its other manufacturing entities and its succeeding supply chain, this includes but is not limited to various corrective actions whether from LSC or LSC's customers (SCARs and such). The Seller is required to retain its business, communications, product quality, and/or other records (related to the product being sold to LSC) for a minimum of 10 years, unless Propriety Information subject to Nondisclosure Agreement provides a longer term) after receipt of product by LSC. Any such non-conformity(ies) will impact the quality rating of and may not meet LSC's or Government specifications.

## 25. Information for External Providers

1. Supplier will ensure that employees and people working on their behalf are aware of their contribution to:
  - a. product or service conformity.
  - b. product safety.
  - c. the importance of ethical behavior.

## 26. Inspections and Test Records

1. During the performance of the Contract and for a period of 10 years after acceptance of all product to be delivered under the Contract, SELLER shall keep and maintain all inspection and test records, and all other technical data generated under or related to this Contract including, but not limited to, drawings, designs, specifications, and manufacturing and process control records. Upon



LSC's request, SELLER shall make available for inspection, and shall allow LSC to make copies of, and take excerpts from, all such records and data.

## 27. Right of Access

1. Right of access by the organization, LSC customers and regulatory authorities to the applicable areas of all facilities, at any level of the supply chain, involved in the order and all applicable records.