

UNIVERSAL INSTRUMENTS CORPORATION – PURCHASING TERMS AND CONDITIONS

1. CONDITIONS OF AGREEMENT

This Purchase Order ("PO") inclusive of both sides of this paper and any attachments represent the sole and entire agreement between the Seller identified on the front of this PO ("Supplier") and Universal Instruments Corporation ("Buyer"), unless there is a written agreement in place between Buyer and Supplier ("Supplier Agreement") in place. If there is a Supplier Agreement in place, the terms and conditions of this PO and those of the Supplier Agreement shall be read as if one document and both shall have full force and effect. If there is a conflict between this PO and a Supplier Agreement the order of precedence shall be: 1) price, quantity and payment terms on the face of this PO 2) terms in the Statement of Work to be referenced on the face of this PO, 3) terms and conditions of the Supplier Agreement, 4) other terms in this PO. These terms and conditions shall also apply to Product supplied via vendor schedule ("PA") when no Supplier Agreement is in place. Hereinafter, the term PO shall be inclusive of PA where applicable.

2. CONFIDENTIAL INFORMATION

Both parties shall treat any information received as part of this PO as confidential, and at a minimum will take the same care taken as with their own internal confidential information. Each party shall make its best efforts to identify confidential information through notice and identification. If requested, Supplier agrees to sign a separate Non-Disclosure Agreement that is made a part of this PO by reference.

3. ACCEPTANCE AND TERMINATION

- 3.1. By acceptance hereof, or, if acceptance has not been communicated to Buyer, by delivery of the goods and/or services ("Products"), Supplier agrees that, subject to Buyer's right to reject partial performance hereunder, a contract containing the provisions herein set forth shall arise between the parties hereto with respect to the Products. No addition or modification hereof, and no waiver or alteration of any provision hereof, shall be valid unless made in writing and executed by Buyer. Failure of Buyer to receive a written acceptance hereof within 10 days after the date hereof shall entitle Buyer, at its sole option, at any time prior to actual receipt of such written acceptance of the Products to terminate this order without cost or liability.
- 3.2. This PO may be terminated by Buyer with or without cause. In the event of termination by Buyer without cause, Buyer agrees to compensate Supplier for the actual and reasonable expenses incurred by Supplier for work in process up to and including the date of termination, provided such expenses do not exceed the agreed upon prices.

4. PRICE AND PAYMENT

- 4.1. Buyer is responsible for and will pay all sales, use and other taxes. All invoices will be paid net 60 days upon receipt of invoice unless otherwise indicated on the face of this PO, or from date of Products receipt if the Supplier is on ERS payment system unless otherwise specified.
- 4.2. Payment will not constitute acceptance of the Products, nor impair Buyer's right to reject Products for non-conformance at a reasonable later date.

5. SHIPPING/DELIVERY

- 5.1. Supplier will package and ship all Products in accordance with Buyer's packaging specification which may be requested from Buyer and will be provided at no charge. In addition, Supplier will use appropriate care in packing and marking shipments to ensure that all shipments are in compliance with all appropriate rules and regulations, including requirements for international shipping.
- 5.2. All Products will be shipped ExWorks origin to Buyer's designated location(s) unless otherwise stated on this PO and packing slips must reference Buyer's part number, PA number (if applicable), quantity and delivery location. Shipments under \$1,000.00 in value are not to be insured. Title to the Products shall transfer to Buyer upon receipt at Buyer's receiving dock.

6. TIME OF ESSENCE

In this PO and in any contract arising therefrom, time is of the essence. If Supplier fails to deliver on time, Buyer may purchase replacements elsewhere and Supplier will be liable for actual and reasonable costs and damages Buyer incurs. Supplier will promptly notify Buyer if it is unable to comply with the delivery date specified on this PO. Buyer also reserves the right to assess and apply charge-backs to the Supplier in situations where critical customer deliveries were missed due to line down situations caused by the Supplier late delivery or quality problems. Charges will also be applied when, due to criticality of need, non-conforming Product requires reworking in Buyer's tool room at Buyer's current shop rates

7. INTELLECTUAL PROPERTY

Unless otherwise specifically stated on the face of this PO or in the body of a related agreement, if this PO calls for experimental, developmental or research work, Supplier agrees to and does hereby grant to Buyer all ownership rights and interests, including the right to patent and license, throughout the world, any inventions, improvements or discoveries conceived or first actually reduced to practice in the performance of this order and for this purpose Supplier shall submit promptly to Buyer a written disclosure of each invention, improvement or discovery.

8. STATEMENT OF WORK

Where applicable, the Buyer and Supplier agree to execute a statement of work ("Statement of Work") detailing all quality and business management related items relative to development of the Products to be provided as stated on the face of this PO. Such Statement of Work is made a part of this PO by reference.

9. WARRANTY

- 9.1. Supplier expressly warrants all Products and services to be free from defects resulting from the design (if the Supplier is the designer or partner in the design), workmanship, and materials. Supplier warrants that Products will conform to specifications and standards for a period of two years from the date of acceptance. Notice of all claims by Buyer under this warranty will be given to Supplier within two years of delivery. Provided that Supplier receives notice from Buyer in a timely manner, Supplier will, at its own expense either promptly replace, or accept return of warranted Products and parts and provide Buyer with a full refund, at Buyer's sole discretion. If a refund is given, Buyer reserves its right to obtain the Products elsewhere and seek "cover" from the Supplier. If Buyer can repair defective Products or make the services viable to Buyer, then Buyer may take remedial steps and Supplier will pay for the repair. Buyer will notify Supplier of the anticipated cost and obtain written approval before starting the repair. All costs for transport of non-confirming Product will be paid by the Supplier, unless "no fault found", is proven by the Supplier. Non-confirming Product will be replaced within 24 hours. A formal Corrective Action report will be required when requested and will be issued by the Supplier within 7 business days of the Buyer's determination of non-confirming Product. Buyer reserves the right to assess a \$100 administration charge for each instance of non-confirming Product identified for documentation and technical assessment costs.
- 9.2. Supplier warrants that at all times, Supplier will comply with all applicable laws, rules and regulations to which it is or becomes subject, including but not limited to the regulations promulgated by any agency of the government of the United States of America and the State of New York.
- 9.3. Supplier warrants that Supplier's Products or services specified in this PO do not infringe any patent, trademark, copyright or other intellectual property right of a third party.
- 9.4. Supplier warrant that Supplier will not modify or change the specifications, manufacturing processes, sub-supplier, or quality requirements to any Product without prior written consent of Buyer.

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10. INSURANCE

Supplier will maintain in force, at its sole cost and expense, insurance coverage for Worker's Compensation, Employer's Liability and Commercial General Liability. In addition, upon request Supplier shall name Buyer as an additional insured.

11. INDEMNIFICATION

11.1. Supplier agrees to defend, hold harmless, and indemnify Buyer from any claim that Supplier's Products or services infringe any intellectual property rights of any third party, or any claim arising from the failure of Supplier to comply with its warranties and obligations under this PO. If a claim of infringement is made, Supplier will, at its own expense, do one of the following: (A) obtain for Buyer the rights to the Products, (B) modify the Products or services so they are non-infringing, (C) replace the Products or services with non-infringing Products or services or (D) accept the return of infringing Products and the cancellation of infringing services and refund any and all amounts paid.

11.2. Supplier shall hold Buyer harmless from and shall defend and indemnify Buyer for all liability, loss, costs, expenses, damages, including court costs and reasonable attorney's fees, arising from any injury (including death) or property damage which is related to, arises in connection with or is based upon (i) any breach by Supplier, its officers, employees, agents or representatives of any provision of this PO, or (ii) any act or omission of Supplier, its officers, employees, agents or representatives. This indemnification does not extend to any liability, loss, costs, expenses or damages arising directly and solely from the acts, omissions or misrepresentations of Buyer, whether negligent, inadvertent or otherwise.

12. ASSIGNMENT

Supplier may not assign performance under this PO without the prior written consent of Buyer.

13. EQUIPMENT

13.1. Any tooling, including but not limited to molds, jigs, fixtures, dies and patterns ("Tooling"), paid for by Buyer including any patents or proprietary intelligence are the property of Buyer. Tooling paid for or provided by Buyer will be plainly marked "Property of Universal Instruments Corporation" with the appropriate tool number assigned and will be consigned to Supplier. If requested, Supplier agrees to sign a separate Equipment Consignment Agreement that is made a part of this PO by reference. Buyer will have the right to remove any and all property at any time. Tooling developed, created or manufactured on behalf of Buyer will be used solely for the benefit of Buyer, unless a specific separate agreement is reached and signed by both parties. Supplier accepts full financial responsibility for any risk associated with loss or excessive damage to Buyer supplied Tooling while in its possession. Supplier will notify Buyer of any loss or damage to Tooling within forty-eight (48) hours of occurrence.

13.2. Modification of any Tooling will be at the direction of Buyer and at Buyer's expense unless otherwise agreed. At no time will Supplier modify any Tooling belonging to Buyer without prior notification and written approval by Buyer.

13.3. Supplier assumes full responsibility to qualify any and all Tooling in accordance with Buyer approved processes, monitor condition of Tooling/tool life to assure no interruption in product flow before or after any required maintenance, repair or replacement of such Tooling, and in conformance with any federal, state or local governmental authorities or agencies. Supplier expressly assumes all risk and liability for property damage or personal injury that may arise from the installation, modification, use and/or removal, of any tool, and any potential injury associated therewith.

13.4. At any given time, Supplier will provide Buyer with a complete list of all Buyer Tooling and other property on the premises of Supplier and will be able to demonstrate compliance with the obligations of this PO.

14. LIMITATION OF LIABILITY

Supplier assumes all risk of loss due to damage or rejection of inadequate Products, or termination of this PO. In no event will Buyer be liable to Supplier for any lost revenues, lost profits, incidental, indirect, consequential, special or punitive damages.

15. APPLICABLE LAWS

This PO shall be construed and enforced in accordance with the laws of the State of New York, regardless of its conflicts of law principles, and of the laws of the United States of America. The parties exclude the application of the 1980 United Nations Convention on Contracts for the International Sale of Goods if otherwise applicable.

16. ARBITRATION

In the event the parties hereto should be unable to amicably settle and dispute or difference arising between the parties within a six (6) month period from the date of first notification of a complaint, then such disputes, controversies, difference of opinion, relating to this Agreement shall be exclusively settled by arbitration in accordance with the arbitration rules of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said rules. Such arbitration shall take place in Binghamton, New York USA. The language to be used under the arbitration shall be English. Award given under the arbitration shall be final and binding upon the parties hereto, and judgment upon the award entered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

17. SEVERABILITY, HEADINGS

Any provision hereunder found to be legally unenforceable shall be deemed deleted and replaced with a legally enforceable provision having the closest possible intent. All other provisions shall remain in full force and effect. Headings and subheadings are for convenience only and shall not be construed to limit the applicability of individual provisions or subprovisions.

18. INSOLVENCY

Supplier represents that it is in a financial position to provide the work and equipment under the terms of this PO. If financial circumstances of Supplier change at any time, Supplier will notify Buyer of the situation and work with Buyer to make sure the Products in this PO are provided in a timely manner and with no reduction in quality.

19. GENERAL

19.1. Supplier will provide to Buyer, on demand and at no additional cost, any information and documentation required by Buyer for compliance with any and all applicable local, state, federal or international requirements including, but not limited to the North American Free Trade Agreement ("NAFTA") and any other laws or regulations whether or not specifically identified in these terms and conditions. Supplier will include on each invoice and packing list adequate Product descriptions, country of origin and US Harmonized Tariff Code for each item in a shipment.

19.2. Any and all hazardous material provided by Supplier or in Products provided by Supplier will be expressly identified, labeled and Material Safety Data Sheets (MSDS) provided to Buyer, prior to the Products arrival at or use by Buyer. If necessary, Supplier agrees to provide MSDS sheets in any language requested by Buyer at no additional cost.

19.3. Where applicable, the following provisions apply to Supplier:

DFARS 252.204-7000 Disclosure of Information

DFARS 252.236-7013 Requirement for Competition Opportunity for American Steel Producers, Fabricators, and Manufacturers

DFARS 252.246-7003 Notification of Potential Safety Issues

FAR 52.203-14 Display of Hotline Poster(s)

FAR 52.203-15 Whistleblower Protection Under the American Recovery and Reinvestment Act of 2009

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- FAR 52.222-21 Prohibition of Segregated Facilities
- FAR 52.222-26 Equal Opportunity
- FAR 52.222-35 Equal Opportunity Veterans
- FAR 52.222-36 Affirmative Action for Workers with Disabilities
- FAR 52.222-37 Employment Reports Veterans
- FAR 52.222.40 Notification of Employee Rights Under the National Labor Relations Act
- FAR 52.222.41 Service Contract Act of 1965
- FAR 52.222.50 Combating Trafficking in Persons
- FAR 52.222.54 Employment Eligibility Verification
- FAR 52.223-18 Contractor Policy to Ban Text Messaging While Driving
- FAR 52.225-13 Restrictions on Certain Foreign Purchases
- FAR 52.244.06 Subcontracts for Commercial Items
- FAR 52.245-01 Government Property
- FAR 52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels
- 41 CFR 60-1.7

These provisions have the same force and effect as if they were stated in their full text.