

CUSTOMER TERMS AND CONDITIONS

This Terms of Sale document, together with the Quote and special conditions (if any attached) constitute the final, complete, and exclusive statement of all the terms of agreement between Scott Electronics, Inc. ("SEI") and Buyer. No prior oral or written agreement shall be part of, or serve to modify, this Order. Exceptions, confirmations, purchase orders, correspondence, or invoices by Buyer which state additional or different terms shall not alter this Order in any way. Any such differing or additional terms shall be deemed material alterations within the meaning of the Uniform Commercial Code and notice of objection to any such differing or additional terms is hereby given. This Order can only be modified by a written instrument referencing this Order, denoted as "Amendment," and signed by the parties after the effective date hereof. The Quote of SEI is subject in every case to the following terms of sale.

1. **Definitions.** Where used herein the term "SEI" shall refer to Scott Electronics, Inc.; "Quote" shall mean SEI's offer letter, quotation or proposal, as appropriate; "Goods" shall mean the goods and services ordered; "Order" shall refer to the agreement between the parties to which these terms pertain; and "Buyer" shall denote the party placing the Order.
2. **Agreement of Sale and Acceptance.** No order or agreement for the purchase from, and sale by, SEI of Goods becomes a contract unless accepted by SEI. SEI's acceptance of the Order is expressly made conditional on Buyer's assent to the terms contained herein, the Quote, and special conditions (if any) attached. Any terms or provisions of Buyer's purchase order or other documents which are inconsistent with the terms and conditions hereof are expressly rejected and shall not be binding upon SEI. The terms and conditions herein shall supersede any provisions, terms and conditions contained in any purchase order or other writing Buyer may have issued or may hereafter issue, and the rights of the parties shall be governed exclusively by the provisions, terms, and conditions hereof. Buyer expressly waives any rights available to it under Section 2-207 of the Uniform Commercial Code to contest the provisions of this document.
3. **Goods.** SEI will provide the Goods more fully described in the Quote or specifications made part of the Order. Schedules and time of performance of services or work to be performed will be as set forth in the Quote or as mutually agreed upon, subject to availability of SEI personnel. Cancellations or pushouts will need to be authorized by an account manager or higher authority.
4. **Delivery/Risk of Loss.** Delivery is FOB SEI's facility identified in the Order or Quote. Risk of loss will pass to Buyer upon SEI's tender to Buyer's carrier at SEI's facility. If Buyer fails to specify a carrier, SEI will deliver to a carrier it deems most appropriate. Delivery dates quoted are SEI's best estimate of the delivery schedule. SEI reserves the right to substitute reasonable alternative delivery dates without liability or penalty in the event the delay is due to fire, flood, accidents, severe weather, pandemic, labor stoppages, inability to secure materials or labor, transportation difficulties, government acts or regulations, insolvency of key suppliers, or other reasons beyond SEI's control.
5. **Acceptance of Goods.** Final inspection and acceptance shall occur at SEI's facility upon satisfactory completion of acceptance testing which will be performed by SEI, in accordance with SEI's test procedures. Upon satisfactory completion of acceptance testing, a Certificate of Compliance will be signed by a member of SEI's quality assurance team and furnished to Buyer.
6. **Prices.** Prices for Goods are set forth in the Quote and are exclusive of any applicable federal, state or local sales, use, excise or similar taxes, however designated, levied, or measured by the sale, the sales price or use of Goods or material or services required in the performance of this Order. SEI will list separately on its invoice any such taxes applicable to any such Goods, and payable by Buyer, unless Buyer furnishes to SEI evidence of exemption acceptable to the taxing authority. Prices do not include any customs duties, fees or taxes, however characterized, transportation charges or insurance costs, all of which, where applicable, shall be paid by Buyer. Total price includes packaging in accordance with SEI's standard commercial practice. Special packaging will be at Buyer's expense.
7. **Payment.** Unless otherwise specified in writing by SEI, terms of payment for Buyer are the earlier of net thirty (30) days from the date of invoice or upon delivery. Payment shall be in U.S. dollars, net cash, Salem, New Hampshire. Payments are unconditional and shall be made as specified in the Order, without recourse, set off, or discount. If Buyer shall fail to make any payment in accordance with the terms and conditions hereof, SEI, in addition to its other rights and remedies, may, at its option, defer shipments or deliveries hereunder, or under any other contract with Buyer. SEI reserves the right to require payment before delivery if credit information on Buyer is lacking or

CUSTOMER TERMS AND CONDITIONS

unfavorable. Buyer will execute and furnish to SEI any security interests and UCC forms necessary to protect SEI's security interest in the Goods until full payment of the total price is made.

- 8. Buyer Default and Termination.** In addition to all other rights or remedies available to it, SEI shall have the right and option to immediately terminate this Order upon written notice to Buyer in the event of the occurrence of one or more of the following: (i) if Buyer breaches any terms and conditions of this Order, including but not limited to the failure to perform any obligation hereunder or make any payment due hereunder; or (ii) if Buyer shall make an assignment for the benefit of creditors, or file a petition in bankruptcy, or be adjudged bankrupt or become insolvent, or be placed in the hands of a receiver, or otherwise be involuntarily placed into bankruptcy, or have its charter of incorporation relinquished or canceled. The equivalent of any of the proceedings or acts referred to in this paragraph, though known by some other name or term, shall likewise constitute a ground for termination of this Order. In the event of default, Buyer shall be liable to SEI for all damages or losses, including loss of reasonable profits, and for costs and expenses, including attorneys' fees sustained by SEI.
- 9. SEI Warranty.**

 - a.** SEI warrants and represents that title to Goods conveyed shall be clear and Goods are free of any security interests or lien except that SEI shall have a security interest in the Goods until the purchase price is paid in full.
 - b.** SEI warrants and represents that Goods will substantially conform to SEI's published descriptions or those specifications specifically agreed to in the Order, but Buyer's sole remedy under this warranty shall be limited to the return within 60 days of delivery of any nonconforming Goods for credit, repair, or replacement, at SEI's sole option.
 - c.** Notice of any defects or nonconformities shall be given to SEI in writing and Buyer shall prepay transportation to and from SEI's facility. SEI shall have no liability under warranty for Goods not maintained in accordance with applicable maintenance manuals or Goods that have been abused, materially altered, repaired, misused, or abused by Buyer, customers, end users, or third parties. This warranty does not apply to expendables and consumable parts. Prototypes are warranted for ninety (90) days.
 - d.** EXCLUSIONS AND LIMITATIONS. THE FOREGOING COMPRISES THE ENTIRE WARRANTY PROVIDED BY SEI AND BUYER'S SOLE REMEDY WITH RESPECT TO ANY DEFECT OR NONCONFORMANCE IN GOODS PROVIDED BY SEI. THESE WARRANTIES AND REMEDIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR THOSE ARISING FROM COURSE OF DEALING OR USAGE IN TRADE.
- 10. Compliance with Laws.** Buyer agrees to comply with all applicable laws, codes and regulations (including but not limited to export administration regulations) and assumes the responsibility for providing and installing any and all devices for the protection and safety and health relative to the Goods. Buyer will not export the Goods outside the United States or provide them to non-U.S citizens without first obtaining the necessary Government authorizations and export approvals
- 11. Assignment.** Buyer shall not voluntarily or by operation of law assign, sublicense, transfer, encumber or otherwise dispose of all or any part of its interest in this Order without the prior written consent of SEI.
- 12. Limitation of Liability.** SEI shall not be liable to Buyer for consequential (including but not limited to lost profits and business interruption), incidental, special, punitive/exemplary damages alleged to arise from, or relate to the Goods and/or this Order however or whenever caused. SEI's cumulative liability (if any) to Buyer for all claims of direct damages of any kind resulting from SEI's performance or breach of this Order or from the Goods' furnished hereunder shall not exceed, to the extent collected by SEI, the equivalent of a refund of the Price of the Goods which is (are) the subject of a claim.
- 13. Indemnity.** Buyer shall defend, indemnify and hold harmless SEI, together with its affiliated companies, and the officers, directors, employees and agents of each, from and against any and all losses, damages, liabilities, claims, demands and causes of action arising out of (i) an allegation that the use of the Goods, either alone or in connection with other material or equipment, or in the operation of any process, or as altered, infringes any patent or other intellectual property right, (ii) any allegation that the Goods infringe any patent or other intellectual property right, when such Goods were manufactured/modified consistent with Buyer's designs, specification and/or formulae and were not normally offered for sale by SEI, (iii) Buyer's failure to comply with the provision of Paragraph 9 herein, (iv) allegations of personal injury to Buyer's employees, agents, servants, subcontractors, customers or third parties,



CUSTOMER TERMS AND CONDITIONS

either arising from or relating to the Goods or from said person's presence on SEI's premises and/or (v) damage to property of Buyer, Buyer's employees, agents, servants, subcontractors, customers, or third parties, arising from the Goods.

- 14. Severability.** If any provision of this Order or Terms of Sale document is held invalid or unenforceable, the remainder of the Order and Terms of Sale document shall continue in full force and effect.
- 15. Waivers.** No release, discharge or waiver of any provision hereof shall be enforceable against or binding upon either party hereto unless in writing and signed by both parties hereto. Neither the failure to insist upon strict performance of any of the agreements, terms, covenants or conditions hereof, nor the acceptance of money due hereunder with knowledge of a breach of this Order, shall be deemed a waiver of any rights or remedies that either party hereto may have or a waiver of any subsequent breach or default in any such agreements, terms, covenants and conditions. Further, no waiver by either party of any breach or default by the other party shall constitute a waiver of any other breach or default of the same or any other provisions of this Order.
- 16. Governing Law and Forum.** This Order shall be interpreted, construed, and governed under the laws of the State of New Hampshire, excluding its choice of law rules, as applied to contracts between New Hampshire corporations entered and fully performed in New Hampshire. Forum for any dispute shall be any court of competent jurisdiction located within Rockingham County, New Hampshire, and Buyer consents to such jurisdiction.
- 17. Non Cancellable - Non Returnable (NCNR)** Must sign an NCNR for or add a note to the PO stating liability of the NCNR component.