
ADCO CIRCUITS, INC
TITLE: Purchase Order Terms & Conditions

DOCUMENT #: AF-0304 Revision G
DEPARTMENT: Quality/Purchasing

DATE: 08/09/12
ORIGINATOR: T. Sting

- 1. ACCEPTANCE:** The acceptance of this order, by acknowledgment, shipment of goods, performance of services or commencement of work on supplies shall constitute acceptance of the conditions set fourth below and on the face of this order. No purported acceptance of this order on terms and conditions that modify, supersede or otherwise alter the terms and conditions hereof, shall be binding upon Buyer. Any shipment of goods, performance of services or commencement of work on supplies by Seller shall be deemed to be only upon the terms and conditions herein except to the extent that an authorized purchasing representative of Buyer may otherwise expressly consent in writing, notwithstanding Buyer's acceptance or payment for any shipment of goods or similar act of Buyer.
- 2. DELIVERY:** Delivery must be in strict compliance with the schedule contained in this order and will be made by Seller at such times and places and of such items and quantities as may from time to time be specified by Buyer. If Seller fails to meet it's scheduled delivery dates and Buyer elects to call for expedited shipments, Seller will pay the difference between the method of shipping specified and the actual expedited rate incurred. Notwithstanding such delivery, Seller shall bear risk of loss or damage to goods purchased hereunder from the time that Buyer gives notice of rejection of goods pursuant to the inspection provisions of this order. If Seller encounters or anticipates difficulty in meeting the delivery schedule, Seller shall immediately notify Buyer in writing, giving pertinent details; provided however, that such data shall be informational only in character and shall not be construed as a waiver by Buyer of any delivery schedule or date or of any rights or remedies provided by law or this order. Parts fabricated in excess or in advance of Buyer's release are at Seller's risk. Buyer reserves the right without loss of discount privileges, to pay invoices covering items shipped in advance of the schedule on the normal maturity after the date specified for delivery.
- 3. INSPECTION:** Buyer and the Buyer's customer representative shall have the right to inspect and verify the goods supplied hereunder at any time during the manufacture or fabrication thereof at Seller's facilities or elsewhere. Such inspection shall include, without limitation; raw materials, components, work in process and completed products, as well as, drawings, specifications and related data.
- 4. OVERSHIPMENT:** Goods shall not be supplied in excess of quantities and shipping tolerances, if any, specified herein. Seller shall be liable for handling charges and return shipment costs for any excess quantities. Unless Seller agrees to pay for such costs, the over-shipped materials will be retained by Buyer at no cost.
- 5. PRICES:** Unless otherwise specified, prices are F. O. B., the place shown on the face of this order, and are exclusive of state sales and use taxes. No charge will be allowed for packing, crating, drayage, or storage. Seller warrants that prices charged for the goods are not higher than those charged to any other customer, including the Government, for goods of like grade and quality in similar or lesser quantities.
- 6. PAYMENT:** Seller shall be paid upon submission of properly prepared invoices in accordance with Buyer's invoicing instructions for materials and supplies delivered to and accepted by Buyer. Any adjustments in Seller's invoice due to shortages, rejection or other failure to comply with the provisions of this order or under any other order or contract between Buyer and Seller may be made by Buyer before payment.
- 7. LIMITED WARRANTY:** Seller warrants that goods ordered to specifications will conform thereto and to any drawings, samples or other description furnished or adopted by Buyer and will be fit and sufficient for the purpose intended: and that all goods are merchantable, of good material and workmanship and free from defect. Such warranties, together with Seller's service warranties and guarantees, if any, shall survive inspection, test, acceptance of and payment for the goods and shall run to Buyer, its successors, assigns, customers at any tier and ultimate user and joint users.

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8. COMPLIANCE WITH LAWS AND REGULATIONS: Seller warrants that it is in compliance with all applicable laws, statutes, rules, regulations, or orders of the jurisdiction where Seller performs work under this order and in any jurisdiction to which the items are to be ultimately delivered, as well as all laws of the United States of America that may be applicable, including the U.S. Foreign Corrupt Practices Act, Trading With The Enemy Act, Arms Export Control Act, Export Administration Act and their regulations, including the regulations of the Office of Foreign Assets Control. Seller agrees to comply with the laws and regulations enforced by the Office of Federal Contract Compliance Programs (OFCCP), as applicable, including Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, and 41 CFR Part 60. Seller may have obligations to prepare annual affirmative action plans as required under OFCCP's regulations if Seller:

(a) Is not otherwise exempt as provided by 41 CFR Section 60-1.5,

(b) Has 50 or more employees and,

(c) Has a contract, subcontract or purchase order for more than \$50,000 that is necessary to the performance of a covered contract in the case of the Women and Minorities AAP and the individuals with disabilities AAP, and has a contract, subcontract or purchase order for more than \$100,000 that is necessary to the performance of a covered contract in the case of the Veterans AAP.

8.1 In addition Sellers subject to these requirements are also notified of their obligation to file EEO Standard Form 100.

To the extent applicable, Eaton incorporates by reference the purchaser's obligations pursuant to 29 Code of Federal Regulations (C.F.R.) Part 471, Appendix A to Subpart A.

8.2 For government contracts valued at \$100,000 or more, it is mandatory to include the following language, in bold text, in the contract/subcontract:

This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

8.3 For government contracts that are valued in excess of \$10,000, but are less than \$100,000, it is mandatory to include the following language, in bold text, in the contract/subcontract:

This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of disability, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, or disability.

9. CHANGES: Buyer may at any time, by written notice, and without notice to sureties or assignees, make changes within the general scope of this order. If any such change causes an increase or decrease in the cost of or the time required for the performance of any part of the work under this purchase order whether changed or not changed by any such order or affects any such order or affects any other provisions of this purchase order, an equitable adjustment shall be made in the price or delivery schedule or both and in such other provisions of this purchase order as may be affected, and this purchase order shall be modified in writing accordingly.

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10. BUYER FURNISHED PROPERTY: Buyer may from time to time furnish property to Seller for performance of this order. Any equitable adjustment of this order occasioned thereby shall be made pursuant to the clause hereunder entitled "Changes" Unless otherwise provided in this order or agreed to in writing, property of every description including all tools, equipment and material furnished or made available to Seller, title to which is in Buyer, and Seller shall identify and save harmless Buyer from all liens and claims upon said property arising from any cause.

11. STOP WORK ORDER: Buyer may at any time, by written notice to Seller, require Seller to stop all or any part of the work called for by this order for a period of up to ninety (90) days after the notice is delivered to Seller ("STOP WORK ORDER"). Upon receipt of the Stop Work Order, Seller shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to Seller, or within any extension of that period to which the parties shall have agreed, Buyer shall either cancel the Stop Work Order, or terminate the work covered by this order as provided in the "Default" or the "Termination for Convenience" paragraphs of this order, whichever is appropriate.

12. TERMINATION FOR DEFAULT:

(a) Buyer may, subject to the provisions of subparagraph (c) below, by written notice of default to Seller, terminate the whole or any part of this order in any one of the following circumstances: (I) If Seller fails to make delivery of the goods or to perform this order 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 does not cure such failure within a period of ten (10) days or longer period (as Buyer may authorize in writing) after receipt of notice from Buyer specifying such failure.

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

(c) Except in the respect to defaults of subcontractors, Seller shall not be liable for any excess costs if the failure to perform this order arises out of causes beyond the control and without the fault or negligence of Seller. Such causes may include, but are not limited to, acts of God or of the public Enemy, acts of the Government in either its sovereign or contractual capacity, fires, flood, 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 seller. If failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Seller and the subcontractor, and without the fault or negligence of either of them, Seller shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Seller to meet the required delivery schedule. The term "subcontractor(s)" shall mean subcontractor(s) at any tier.

(d.) If, after notice of termination of this order under the provisions of this paragraph, it is determined for any reason that Seller was not in default under the provisions above or that the default was excusable under the provisions of this paragraph, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to a termination for convenience of Buyer.

(e.) The rights and remedies of Buyer provided this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this order.

13. TERMINATION FOR CONVENIENCE: Buyer may at any time by written notice, terminate all or any part of this order for Buyer's convenience. If this order is terminated, in whole or in part, for Buyer's convenience, Seller shall be paid an amount to be mutually agreed upon,

ADCO CIRCUITS, INC
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DATE: 08/09/12
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which shall be adequate to cover the reasonable cost of Seller's actual performance of work under this order to the effective date of termination, plus a reasonable profit thereon: provided that no amount shall be paid to Seller for **(I)** Any anticipatory profits related to work under this order not yet performed or **(II)** Costs incurred due to Seller's failure to terminate work as ordered on the effective date of termination. In no event shall the total amount paid under this provision, exceed the prices set forth in this order for the work terminated.

14. INDEMNIFICATION: If this order is issued under a Government prime contract or subcontract, Seller shall indemnify Buyer against and hold Buyer harmless from all claims, expenses and losses arising out of performance of this order by Seller **(I)** When such claim, expenses and losses result from the failure of Seller to furnish to Buyer, in accordance with the provisions of the relevant regulations, cost or pricing data, which is accurate, complete and current at the time of the Seller and Buyer's agreement to the negotiated price or at the time when Buyer requests a reaffirmation of the same and **(II)** When such claims, expenses and losses result from Seller's failure to comply with the rules, regulations and standards of the Cost Accounting Standard Board in connection with covered contracts.

15. DATA: All drawings and specifications, furnished or paid for by Buyer shall be the property of Buyer, shall be subject to removal at any time without additional cost upon demand by Buyer, shall be used only in filling orders from Buyer and shall be kept separate from other drawings and specifications, and identified as the property of Buyer.

16. PATENTS AND COPYRIGHTS: Seller agrees to defend, indemnify and hold harmless Buyer, its customers and agents against any liability, including without limitation costs, expenses and attorney's fees for or by reason of any actual or alleged infringement of any patent or copyright arising out of the manufacture, use, sale, delivery or disposal of goods furnished under this order and not attributable to Seller's compliance with Buyer's specific written detail, each notice or claim of patent or copyright infringement relating to the performance of this order of which Seller has knowledge. Where payment is made for experimental, developmental or research work performed under this order, Seller shall disclose and does hereby assign to Buyer all inventions resulting therefrom and does grant Buyer the right to use for any purpose all data specified to be delivered hereunder.

17. ASSIGNMENT AND SUBCONTRACTING: Seller shall not assign any contract resulting from this order or any portion of such contract, nor shall Seller subcontract for completed or substantially completed goods or services purchased hereunder without the prior express written consent of the Buyer.

18. NOTICES: All notices required or permitted to be given hereunder shall be deemed to be properly given if delivered in writing personally or sent by United States certified or registered mail addressed to Seller or Buyer, as the case may be, at the addresses set forth on the face of this order, with postage thereon fully prepaid. The effective time of notice shall be at the time of mailing.

19. WAIVER: No waiver by Buyer of any breach of this order or the granting of an extension for performance hereunder shall be deemed to be a waiver of any other subsequent breach.

20. DISPUTES: Pending resolution of any disputes hereunder, Seller shall proceed diligently with the performance of work, including the delivery of goods in accordance with Buyer's direction. Upon resolution of the dispute, this order shall be equitably adjusted, if necessary, to reflect such resolution.

21. APPLICABLE LAW: The validity, performance and construction of the contract arising from the acceptance of this order shall be governed by and construed in accordance with the laws of the state in which Buyer's facility issuing this order is located, excluding its choice of law rules. Jurisdiction and venue for any suit between the parties hereto arising out of or connected with this order or the goods furnished hereunder, shall lie only in the country and state in which such facility is located.

ADCO CIRCUITS, INC
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22. Federal Acquisition Regulation (FAR): If this order contains a U.S. Government Prime Contract Number or if any of the items to be supplied under this order are to be used on a U.S. Government contract, the FAR and, if applicable, DFARS clauses listed in [P.O. Terms U.S.-- FAR and DFARS Flow-Downs for U.S. Government Contracts \(the "Flow-Downs"\)](#) are incorporated herein by reference and made part of these terms and conditions. Unless specified otherwise, the term "Contractor" will mean "Seller," the term "Contract" will mean "Order," and the term "subcontractor" will mean Seller's subcontractors. Seller agrees to negotiate with Buyer to incorporate additional provisions beyond those identified in the Flow-Downs or to change provisions as Buyer reasonably deems necessary to comply with the applicable government contract. Seller shall accept mandatory flow-down clauses at no additional cost to Buyer.

23. GIFT AND GRATUITY POLICY: The offering or acceptance of kickbacks, bribes and other illegal payments subverts the very essence of competition and erodes the moral fiber of those involved. These include gratuities (i.e., anything of value) offered to governmental officials or employees. Such activities are not condoned and will not be tolerated. Also, ADCO Circuits prohibits the offer or acceptance of gifts or gratuities that the recipient likely would consider to be of substantial value. Any supplier that violates this item A (23) Gift and Gratuity Policy risks immediate loss of all existing and future ADCO Circuits business.

24. CHANGES IN MATERIAL, PROCESSES OR LOCATION: Suppliers are not allowed to relocate tools, change production facilities, subcontract this business, make significant process or material changes after First Article or PPAP submission without prior written approval from ADCO's Purchasing department.

25. DEFECTIVE MATERIAL: When it has been determined that the Supplier is responsible for quality defects, ADCO requires cost recovery that will include, but not limited to: cost of defective assemblies and raw inventory.

26. Regulated Substances and Materials/Design Requirements & EHS Requirements: Seller must comply itself, and must cause its suppliers and its representatives, if any, to comply with all environmental, health and safety ("EHS") directives, laws, and regulations and company policies ("EHS Requirements") that are applicable to the items or services delivered under this order, as a result of the place the items or services are created or delivered to Buyer, or the ultimate place Buyer's own products or its customers' products are sold or used. Seller will also cooperate with Buyer's efforts to address EHS Requirements.

(a) EHS Requirements include, but are not limited to the following, referred to as "Regulated Substances and Materials/Design Requirements":

(1) All applicable standards, laws, and regulations concerning product content, hazardous substances and materials, recycling, and product end-of-life/take-back, including, but not limited to: the International Material Data System (IMDS) system, the European Union Waste Electrical and Electronic (WEEE) Directive, the European Union Restriction of Hazardous Substances (RoHS) Directive, the European Union End-of-Life Vehicle (ELV) Directive, the European Union Registration, Evaluation and Authorization of Chemicals (REACH) regulation, the European Union Batteries and Accumulators and Waste Batteries and Accumulators Directive, their respective revisions, amendments or successor systems, and their equivalents in other jurisdictions that are applicable to the items or services delivered under this order as a result of the place the items or services are created or delivered to Buyer or the ultimate place Buyer's own products or its customers' products are sold or used.

(2) All applicable standards, laws, and regulations concerning product design for safety and energy efficiency, including associated product marking and labeling requirements;

(3) All applicable standards, laws and regulations concerning product packaging and transportation, including but not limited to: regulations of the U.S. Department of Transportation concerning transportation of hazardous materials, including, but not limited to, training of personnel, packaging, marking, labeling, documenting, placarding, and responding to emergencies, the International Maritime Organization and the International Air Transport

ADCO CIRCUITS, INC
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DATE: 08/09/12
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Association and their respective revisions, amendments or successor systems, and their equivalents in other jurisdictions that are applicable to the items or services delivered under this order as a result of the place the items or services are packed or transported to Buyer; and

(4) Any requirement of Buyer or Buyer's customer(s) concerning the chemical content or design of any item provided to Buyer by Seller under this order, including but not limited to use restrictions or bans on certain substances.

(b) Compliance and cooperation includes, but is not limited to, Seller doing each of the following, if required by any of the EHS Requirements:

(1) Identifying the chemical content of each item provided to Buyer by Seller including the chemical names and quantities contained in the item.

(2) Immediately giving written notice to Buyer, of the identity and quantity of any substance included in the items provided to Buyer under this order together with sufficient information to allow safe use of the items,

(3) Eliminating certain regulated substances used in, with, or in connection with the items provided under this order,

(4) Pre-registering, registering with, or notifying the regulatory agencies with respect to the chemical content of the items provided by Seller under this order; and

(5) Providing to Buyer documentation in the format required by Buyer, specifying the identity and quantity of the chemical content of the items provided by Seller under this order, along with all relevant safety data sheets.

(c) If requested by Buyer, Seller must certify that the items provided to Buyer under this order comply with the Regulated Substance/Design Requirements. Seller must indemnify and hold Buyer harmless, in accordance with Article 13 of this order, from any Claims incurred by Buyer due to Seller's inaccuracy or omission in its warranty regarding the Regulated Substance/Design Requirements.

(d) If any EHS Requirements prohibit the delivery to Buyer of the items to be provided under this order, Seller must immediately inform Buyer and must propose an alternate solution to ensure the continuity of supply to Buyer in compliance with the Regulated Substance/Design Requirements and this order.

(e) Seller must cooperate and reasonably support Buyer in Buyer's EHS efforts, as applicable to Seller's performance of this order. This includes:

(i) Seller's support of worker safety, waste minimization, recycling, water conservation, energy conservation, greenhouse gas reduction, and other Buyer sustainability initiatives; and

(ii) to the extent that new items will be designed under this Order, Seller will cooperate with Buyer in evaluating the item's environmental aspects and impacts (e.g., water, ground, air, noise, smell, sight and health) throughout its life-cycle, including its repair, maintenance and end-of-life disposal. Upon Buyer's reasonable request, Seller will provide Buyer with data, information and documents evidencing Seller's support of the foregoing efforts and, to the extent not otherwise business confidential, the parties will share associated life-cycle data and analyses.

ADCO CIRCUITS, INC
TITLE: Purchase Order Terms & Conditions

DOCUMENT #: AF-0304 Revision G
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Dear Supplier,

Adco Circuits would like to enter into an agreement relative to purchase orders issued to your company.

Please review the enclosed Terms and Conditions Form (AF-0304). Indicate your agreement to the terms and conditions by signing in the space provided below and returning a signed copy of the form along with your supplier quality checklist. This will constitute acceptance of the terms and conditions and will determine how our two companies will conduct business unless otherwise agreed to in writing. Any revisions to this document are accessible via the web at: www.adcocircuits.com under the Supplier portal.

**Sincerely,
ADCO Circuits, Inc.**

Signature Acceptance:

Company Representative

Company Name

Printed Name/Title

Signature/Date