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## ADCO CIRCUITS, INC

### TITLE: Customer Purchase Order Terms & Conditions

DOCUMENT #: CM-0308 Revision B  
DEPARTMENT: Contracts

DATE: 11/6/12  
ORIGINATOR: B. Beauchamp

- 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

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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.

**8. COMPLIANCE WITH LAWS AND REGULATIONS:** Seller will comply with the Fair Labor Standards Act of June 30, 1938, (29 USC 201-209), as amended. Seller also warrants that in the performance of this order, Seller will comply with all applicable statutes, rules, regulations and orders of the United States and of any State or political subdivision thereof and agrees to indemnify Buyer against any loss, cost damage or liability by reason of Seller's violation of this warranty.

**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.

**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

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"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, which shall be adequate to cover the reasonable cost of Seller's actual performance of work

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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. If Government contract number is cited on the face hereof, a termination for Buyer's convenience shall be accomplished in accordance with DAR-8-706, as in effect on the date of this order, which shall be controlling over any conflicting provisions hereof.

**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:** Buyer agrees to assume full responsibility for the defense of any suit or proceeding which may be brought against Seller or its agents, customers or other sellers for alleged patent infringement, as well as for any alleged unfair competition resulting from similarity in design, trademark or appearance of goods assembled pursuant to Buyer-provided specifications under this Agreement. In addition, Buyer agrees to indemnify Seller, its agents and customers against any and all expenses, losses, royalties, profits and damages including court costs and attorney's fee resulting from any such suit or proceeding, including any settlement.

**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

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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.

**22. GOVERNMENT CONTRACTS:** If this order is issued under a United States Government prime contract or subcontract, the clauses listed below as set forth in the Federal Acquisition Regulation (FAR) or DOD supplement (DFAR), in effect on the date of this order, are incorporated herein by reference, and the terms and conditions thereof shall be controlling over any conflicting terms and conditions set forth herein.

- 1) **52.203-2** *Independent Price Determination*
- 2) **52.203-7** *Anti-Kickback Clause*
- 3) **52.212-8** *Defense Priority and Allocation Requirements*
- 4) **52.222-21** *Certification of Non-Segregated Facilities*
- 5) **52.222-26** *Equal Opportunity*
- 6) **52.223-1** *Clean Air and Water Certification*
- 7) **52.223-2** *Clean Air and Water*
- 8) **52.223-3** *Hazardous Material Identification and Material Safety Data Sheet*
- 9) **52.230-3** *Cost Accounting Standards*
- 10) **52.230-4** *Administration of Cost Accounting Standards*
- 11) **52.230-5** *Disclosure and Consistency of Cost Accounting Practices*

**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.

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**ADCO CIRCUITS, INC**

**TITLE: Customer Purchase Order Terms & Conditions**

DOCUMENT #: CM-0308 Revision A  
DEPARTMENT: Contracts

DATE: 05/23/08  
ORIGINATOR: B. Beauchamp

**Dear Customer,**

**ADCO Circuits, Inc. would like to enter into an agreement relative to all purchase orders issued by your company to ADCO Circuits, Inc.**

**Please review the enclosed Terms and Conditions Form. Indicate your agreement to these terms and conditions by signing in the space provided below. This will constitute acceptance of these terms and conditions and will determine how our two companies will conduct business unless otherwise agreed to in writing.**

**Sincerely,  
ADCO Circuits, Inc.**

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**Signature Acceptance:**

\_\_\_\_\_  
**Company Representative**

\_\_\_\_\_  
**Company Name**

\_\_\_\_\_  
**Printed Name/Title**

\_\_\_\_\_  
**Signature/Date**