



## **Purchase Order Terms and Conditions for Suppliers Working with DynamicSignals LLC**

**Effective 1/15/17**

### **PURCHASE ORDER TERMS AND CONDITIONS**

1. **AGREEMENT:** This order is DynamicSignals LLC's ("Buyer")'s offer to Seller and becomes a binding contract, subject to the terms hereof, when accepted by acknowledgement or commencement of performance by Seller. Buyer objects to all additions, exceptions, or changes to these terms, whether contained in any printed form of Seller or elsewhere, unless approved by Buyer in writing. To the extent there are any inconsistencies between these terms and those written on the face of this order, the latter will control.

2. **PRICE:** Unless otherwise specified, the prices stated on this order include all charges for packing, hauling, storage, transportation to point of delivery, and taxes. Sales and use taxes not subject to exemption shall be stated separately in Seller's invoice.

3. **CHANGES:** Buyer may at any time make changes in the scope or quantity of the goods or services covered by this order in other terms hereof, in which event an equitable adjustment will be made to any price, time of performance, and other provisions of this order if appropriate. Claims for such an adjustment must be made within fifteen (15) days from the date of receipt by Seller of notice of the change. Substitutions or changes in quantities or specifications by Seller shall not be made without Buyer's prior written approval.

#### **4. WARRANTY:**

a) Seller expressly warrants that the goods or services ordered shall be merchantable; shall conform to this order, to specifications, drawings, and other descriptions referenced in this order, and to any accepted samples; shall be free from defects in materials and workmanship; shall be free from defects in design unless the design was supplied by Buyer; and shall be fit and safe for the intended purposes. Seller warrants that it has clear title to the goods and that the goods and services shall be delivered free of liens or encumbrances.

b) Seller warrants that the goods are not adulterated or misbranded.

c) All these warranties and other warranties as may be prescribed by law shall extend to Buyer, its successors, assigns, and customers and to users of the goods or services and shall run through any expiration date stated on the goods, or, if no expiration date is stated, then for a period of two (2) years after delivery. Claims under these warranties must be made within the applicable period prescribed by statute.

5. INSPECTION and ACCEPTANCE: Goods purchased under this order are subject to Buyer's reasonable inspection, testing, and approval at Buyer's destination. Buyer reserves the right to reject and refuse acceptance of goods which are not in accordance with this order or Seller's representation or warranties, expressed or implied. Seller may be required to complete non-conformance reports and provide these reports to Buyer. Buyer may charge Seller for the cost of inspecting rejected goods. Rejected goods may be returned to Seller, or held by Buyer, at Seller's risk and expense. Payment for any goods under this order shall not be deemed acceptance of the goods. Buyer may, at any reasonable time, inspect Seller's facilities that will or may be used in the performance of this Purchase order. Seller shall ensure and facilitate Buyer's access to Seller's facilities and the Seller's supplier's facilities.

6. RECALL: In the event that a recall of the goods is necessitated by a defect, a failure to conform to the specifications, applicable laws, or any other reason within the Seller's control, Seller shall bear all costs and expenses of such recall, including without limitation, costs of notifying customers, customer refunds, costs of returning goods, lost profits, and other expenses incurred to meet obligations to third parties.

7. SHIPPING and DELIVERY SCHEDULES: Shipment or delivery of goods shall be in accordance with the schedule specified in this order. If Seller does not, or it appears that Seller will not, meet such schedule, Buyer may, in addition to any other rights or remedies provided by law or this order, require that Seller ship the goods via expedited routing to meet the schedule or to recover the time lost and Seller shall pay the difference in shipping costs.

Unless otherwise specified on the purchase order, shipment is to be made by UPS Ground, Collect, using Buyer's account number 626935. Packing slip must list the Purchase Order number, and for each item, the quantity shipped, Seller's part number and Buyer's part number, if furnished. Unless otherwise expressly stated, time is of the essence. Seller agrees to notify Buyer immediately if Seller ever has reason to believe that any Products will not be delivered as ordered, or a shipment will not be made as scheduled.

8. OVERSHIPMENT: Overshipment of goods not approved by Buyer in writing will be returned, at Seller's expense, if such overshipment exceeds 10% of the total order price or \$500.00, whichever is smaller.

9. SUBSTITUTION and MODIFICATION: No substitution or modification of any goods, component parts, tooling, sources of raw materials, processes, or manufacturing sites may be made without Buyer's prior written consent.

11. INDEMNIFICATION: Seller shall defend, indemnify and hold Buyer, its successors, assigns, employees, customers, and users of the goods or services harmless with respect to all claims, liability, damage, loss, and expenses, including attorney's fees, incurred relating to or caused by:

a) actual or alleged patent, copyright or trademark infringement or violation of other proprietary right, arising out of the purchase, sale, or use of the goods or services covered by this order;

b) actual or alleged defect in the services or in the design, manufacture, or material of the goods;

- c) actual or alleged breach of warranty;
- d) failure of Seller to deliver the goods or services on a timely basis; or
- e) failure of the goods or services to meet the requirements of the law.

In the event of a claim under this paragraph, Buyer may at its option terminate this order or defer acceptance of the balance of the goods or services ordered until the claim is resolved. If Buyer is enjoined from use of the goods, Seller shall at Buyer's option, either procure for Buyer the right to continue using the goods, replace the goods with substantially equivalent goods, modify the goods so as to be usable by Buyer, or repurchase the goods at the price set forth in this order. This paragraph shall not be construed to indemnify Buyer for any loss to the extent it is attributable to Buyer's design, specification, or negligence.

13. RISK OF LOSS: Seller shall bear the risk of loss or damage to the goods covered by this order until they are delivered to and accepted by Buyer.

14. BUYER-FURNISHED or PROPRIETARY MATERIAL: Seller shall not use, reproduce, or appropriate for or disclose to anyone other than Buyer, any material, tooling, dies, drawings, designs, or other property or information furnished by Buyer ("Material") without Buyer's prior written approval. Title to all Material shall remain with Buyer at all times, and where practicable the Material shall be clearly marked or tagged to indicate this ownership. Seller shall bear the risk of loss or damage to the Material until it is returned to Buyer. All Material, whether or not spoiled or used, shall be returned to Buyer at termination or completion of this order unless Buyer shall otherwise direct.

15. REFERENCES TO BUYER: Except to the extent required by law, Seller shall make no reference, advertisement, or promotion regarding Buyer or Buyer's purchase or use of the goods or services covered by this order without the prior written consent of Buyer.

16. USE OF SELLER'S INFORMATION: All information disclosed to Buyer in connection with this order is furnished as part of the consideration for Buyer's placement of this order. This information is not to be treated as confidential or proprietary, and no claim will be asserted against Buyer, its assigns, or customers, for its disclosure or use.

17. TERMINATION:

a) Buyer may terminate this order, in whole or in part, without liability: If Buyer anticipated Seller's breach of this order and Seller does not provide adequate assurance of its performance within ten (10) days of Buyer's request; if deliveries are not made at the time or in the quantities specified; or in the event of a breach or failure by Seller to meet other terms of this order. This right shall be in addition to any other remedies provided Buyer by law.

b) Buyer may terminate this order, in whole or in part, at any time for its convenience by notice to Seller in writing. Seller's sole compensation for such termination shall be payment by Buyer of the percentage of the total order price corresponding to the proportion of work completed in filling the order prior to

such notice, plus any reasonable expenses incurred by Seller in terminating orders and work in progress. Such termination claim must be submitted to Buyer within sixty (60) days of the date of termination and shall be subject to audit by Buyer.

c) Upon any termination under this paragraph, title to all equipment materials, work-in-progress, finished products, plans, drawings, specifications, information, special tooling, and any other items for which Seller may submit a claim shall vest in Buyer, and Seller shall promptly deliver these items to Buyer and take all necessary action to protect such property prior to such delivery.

19. ASSIGNMENT or SUBCONTRACTING: Seller shall not assign this order or subcontract any material portion of the performance of it without Buyer's prior written consent.

20. CONFLICT MINERALS: Seller acknowledges that Buyer is required to support its customers in their compliance with Section 1502 of the United States Dodd-Frank Wall Street Reform and Consumer Protection Act ("the Dodd-Frank Act") including the disclosures and reports the customers are required to file with the United States Securities and Exchange Commission related to the use of tin, tantalum, tungsten and gold ("Conflict Minerals"). Accordingly, Buyer 1) requires Seller to be "DRC Conflict-Free" and 2) expects Seller to source only from smelters validated by an independent private sector audit firm. If Seller cannot meet these requirements, Seller may be disqualified as a supplier. To be "DRC Conflict-Free", Seller's products sold to Buyer cannot contain Conflict Minerals that directly or indirectly finance or benefit armed groups in the Democratic Republic of the Congo or an adjoining country. Seller commits to assist Buyer in its support of Section 1502 of Dodd-Frank and its implementing regulations. At Buyer's reasonable request, Supplier must execute and deliver to Buyer declarations in the form of the EICC-GESI Conflict Minerals Reporting Template as adopted by EICC-GESI from time to time, or in any other form that Buyer reasonably requests. Seller shall take all other measures as are necessary to comply with the Act and its implementing regulations, as they may be amended over time.

21. COUNTERFEIT PARTS: Only new and authentic materials are to be used in products delivered to DynamicSignals LLC. No counterfeit or suspect counterfeit parts are to be contained within the delivered product. Parts shall be purchased directly from the OCM/OEM, or through the OCM/OEM franchised distributor. Documentation must be available that authenticates traceability to the applicable OCM/OEM. This documentation shall include the manufacturer's name, address, part number, date codes, lot codes, serializations, and/or any other batch identifications. Independent distributors (brokers) shall not be used without written consent from Buyer. If suspect/counterfeit parts are furnished under this PO and found in any of the goods delivered hereunder, such items will be impounded by buyer. The seller shall promptly replace such suspect/counterfeit parts with parts acceptable to the buyer and seller shall be liable for all costs relating to the removal and replacement of said parts. Buyer reserves all contractual rights and remedies to address grievances and detrimental impacts caused by suspect/counterfeit parts.

20. CONTROLLING LAW: This order and the performance under it shall be controlled and governed by the law of the state shown in Buyer's address on the face of this order, and Seller hereby submits to the jurisdiction of the courts of that state for purposes of resolving any dispute.