

SALES ORDER TERMS AND CONDITIONS

1. GENERAL. (a) These Terms and Conditions constitute an integral part of any offer made by Seller to sell goods to Buyer and shall govern the sale of the goods. Any additional or different terms or conditions proposed by Buyer in any purchase order or otherwise are hereby rejected. Buyer's acceptance of all of the terms and conditions herein is an express condition to the formation of any contract of sale between Buyer and Seller. (b) No order by Buyer, regardless of whether a deposit has been accepted, shall be binding upon Seller until a credit review has been completed and the order has been accepted by an authorized representative of Seller at its corporate headquarters in Irvine California, regardless of Seller's point of manufacture or point of shipment. (c) If a contract is not earlier formed by mutual agreement in writing signed by an officer of Microsemi Corporation based at its corporate headquarters in Irvine CA., acceptance of any goods shall be deemed acceptance of the terms and conditions stated herein

2. PRICES. (a) Unless otherwise stated in writing signed by an officer of Microsemi based at its corporate headquarters in Irvine, CA, all prices quoted by Seller are based on U.S. dollars, F.O.B. shipping point, include domestic packaging, and are effective for thirty (30) days from the date of quotation. (b) Transportation shall be by common carrier, at Buyer's risk and expense, with the charges therefore added to the quoted prices. (c) Should Buyer postpone the delivery date, Seller shall have the right to adjust the price of the undelivered goods to Seller's price at the time of shipment. (d) Unless otherwise agreed to in writing signed by an officer of Seller based out of Seller's corporate headquarters in Irvine, CA, Seller reserves the right to adjust its prices for any goods scheduled for shipment more than sixty (60) days after Seller's acceptance of Buyer's order. (e) All of Seller's published prices or quoted prices are subject to change without notice.

3. TAXES. Any sales, use or manufacturer's tax which may be imposed upon the sale or use of goods, or any property tax levied after readiness to ship, or any excise tax, license or similar fee required under this transaction, shall be in addition to the quoted prices and shall be paid by Buyer. If Buyer is exempt from any taxes, Buyer shall furnish to Seller an appropriate tax exemption certificate, in a form acceptable to the taxing authority or authorities having jurisdiction over such tax matters.

4. DOMESTIC TERMS OF PAYMENT. (a) Unless otherwise agreed to in writing signed by an officer of Microsemi based out of its corporate headquarters in Irvine CA., the payment terms on orders for shipments made to the continental United States are "net thirty" (30) days from the date of invoice. All charges are payable in U.S. dollars. (b) A service charge of 1 1/2 percent per month, not to exceed the maximum rate allowed by law, may be charged on any portion of Buyer's outstanding balance that is not paid within thirty (30) days after invoice date.

5. EXPORT PAYMENT TERMS. Unless other arrangements have been otherwise agreed to, payment on export orders shall be made by irrevocable confirmed letter of credit, payable in U.S. dollars against Seller's invoice and standard shipping documents. Such letter of credit shall be in an amount equal to the full purchase price of the goods, plus insurance and freight charges and any other costs or fees incurred in the shipment of the goods to Buyer's destination, and shall be established at a bank acceptable to Seller.

6. DELIVERY, RISK OF LOSS, AND TITLE. (a) Delivery and completion schedules provided by or agree to by Seller are estimations only. (b) Unless otherwise agreed to, delivery shall be complete upon transfer of possession to common carrier, F.O.B. shipping point, whereupon title and all risk of loss, damage or destruction to the goods shall pass to Buyer. (c) In the absence of a written agreement to the contrary, the means of shipment will be at the discretion of Seller. Seller reserves the right to make partial shipments and to submit invoices for partial shipments. (d) Special Product orders are generally orders for products not in Seller's catalog or those requiring special processing or testing. Shipments of Special Products within five percent (5%) of the quantity ordered, but not in excess of that, shall constitute full delivery. (e) Seller assumes no responsibility for refund or replacement of products shipped at Buyer's request prior to successful completion of acceptance tests, except for those products failing to meet agreed upon incoming electrical inspection at Buyer's facility.

7. PURCHASE PRICE SECURITY INTEREST. (a) It is agreed by Buyer and Seller that, as to the goods which are the subject of any contract of sale and all accessions thereto and proceeds thereof, a purchase money security interest shall attach with Seller as secured party, and with respect to goods which are resold in any form by Buyer, Seller shall be the assignee of any security interest which Buyer retains or obtains in such goods until Buyer has made payment in full therefor in accordance with the terms hereof. (b) Buyer shall be in default (i) if it fails to make any payment as provided for herein; (ii) if bankruptcy, receivership or insolvency proceedings are instituted by or against Buyer; or (iii) if Buyer makes any assignment for the benefit of creditors. (c) Upon Buyer's default, Seller shall have all the rights and remedies of a secured creditor as well as those of a seller of goods, under the Uniform Commercial Code and any other applicable law, including but not limited to, the RIGHT TO TAKE POSSESSION of the goods. (d) Seller may remedy any default and may waive any default without waiving the default remedied or without waiving any prior or subsequent default. (e) Buyer agrees to cooperate fully and assist Seller in perfecting and/or continuing Seller's security interest and to execute such documents and accomplish such filings and/or recordings thereof as Seller may deem necessary for the protection of Seller's interest in the goods. (f) The making of any contract of sale by Buyer and Seller shall be consummated by their signing thereof and this security interest shall be deemed in full force and effect.

8. TERMINATION AND CANCELLATION. (a) Buyer may terminate a Purchase Order in whole or, from time to time, in part upon sixty (60) days' advance written notice for Standard Products and ninety (90) days' advance written notice for Special Products. In any such event Buyer shall be liable for termination charges, which shall include a price adjustment based on the quantity of goods actually delivered, and all costs, direct or indirect, incurred or committed for any sales contract together with anticipated profits. (b) Unless otherwise agreed upon in a writing signed by an officer of Seller based out of Seller's corporate headquarters in Irvine, CA., Seller may cancel all quantities not shipped to Buyer within twelve (12) months of Purchase Order date. In the event that Seller does not ship all quantities because of any action or requisite inaction on the part of Buyer and elects to cancel any quantity not so shipped, Buyer shall be liable for termination charges as provided herein. (c) If in Seller's sole and absolute discretion, Buyer's financial condition does not justify the terms of payment specified herein, Seller may, without any liability to Seller, cancel any sales contract or require Buyer to immediately pay for all goods which have been delivered and pay in advance for all goods to be delivered.

9. NON-WAIVER OF DEFAULT. In the event of any default by Buyer, Seller may decline to make further shipments. If Seller elects to continue to make shipments, Seller's action shall not constitute a waiver of any default by Buyer or in any way affect Seller's legal remedies for any such default.

10. U.S. GOVERNMENT CONTRACTS. If the goods to be furnished under any sales contract between the Buyer and the Seller are to be used in the performance of a U.S. Government contract or subcontract, any U.S. Government procurement regulations shall not be incorporated herein by reference (except as may be specified in a separate document signed by an officer of Seller based in Seller's corporate offices in Irvine, California). Unless otherwise specifically agreed upon in writing, certified cost or pricing data will not be provided and CAS, Defective Pricing, and Audit requirements will not apply for goods purchased hereunder.

11. CONTINGENCIES. Seller is not liable, either wholly or in part, for nonperformance or a delay in performance due to force majeure or contingencies or causes beyond the reasonable control of Seller, including but not limited to, shortage of labor, fuel, raw material or machinery or technical or yield failure. Seller may, in its sole and absolute discretion, allocate production and deliveries in the event of shortage or goods.

12. WARRANTY. The warranties set forth in this paragraph are given in lieu of and expressly disclaim any and all other warranties, express, implied or statutory, including but not limited to, any implied warranties of merchantability or fitness for a particular purpose and of any other warranty obligation on the part of Seller, except as expressly set forth immediately below. Seller warrants the goods against faulty workmanship or the use of defective materials; that such goods will conform to Seller's published specifications or other mutually agreed upon written specifications for a period set forth herein below; and that at the time of delivery, Seller has title to the goods free and clear of any and all liens and encumbrances. These warranties are the only warranties made by Seller and can be amended only by a written instrument signed by an officer of Seller. Seller's warranties shall irrevocably expire immediately after the following periods from date of shipment: All Unassembled Semiconductor Devices (Die or Wafer Form) - thirty (30) days; Assembled Semiconductor Devices and Electronic Components - one (1) year. Continued use or possession of the goods after expiration of the applicable warranty period stated above shall be conclusive evidence that the warranty is fulfilled to the full satisfaction of Buyer. Any mechanical alteration of the goods or/including any additional testing or screening shall void any warranty obligation, implied or statutory. Seller's warranties as hereinabove set forth shall not be enlarged, diminished or affected by, and no obligation or liability shall arise or grow out of, Seller's rendering of technical advice or service in connection with Buyer's order of the goods furnished hereunder.

13. PATENT INDEMNITY. (a) Seller shall defend any suit or proceeding (collectively Suit) brought against Buyer insofar as such Suit is based on a claim that any goods manufactured and supplied by Seller to Buyer constitute direct infringement of any duly issued U. S. patent, and Seller shall pay all damages and costs finally awarded therein against Buyer by a judicial entity of competent jurisdiction, provided that Seller is promptly informed and furnished a copy of each communication, notice or other action relating to the alleged infringement and, if requested by Seller, is given complete authority, information and assistance (at Seller's expense) necessary to

defend or settle said Suit. Buyer shall not engage in settlement negotiations of said Suit, enter into a settlement thereof or into other agreement covering the applicable patent, or make any admissions with respect thereto without the prior signed written consent of Seller. **(b)** Seller shall not be obligated to defend, indemnify or be liable for costs and damages if the alleged infringement **(i)** arises out of compliance with Buyer's specifications, or **(ii)** from a combination with, an addition to, or a modification of the goods by Buyer after delivery by Seller, or **(iii)** from use of the goods, or any part thereof, in the practice of a process; or **(iv)** if the goods for which indemnification is sought are designed or manufactured in compliance with standards issued by any public or private standards body, and the alleged infringement would not have occurred but for compliance with such standards. **(c)** Seller's obligations hereunder shall not apply to any infringement occurring after Buyer has received notice of such Suit or other communication alleging the infringement unless Seller has given written permission for such continuing infringement. **(d)** If the goods manufactured and supplied by Seller to Buyer shall be held to infringe any U.S. patent, and Buyer shall be enjoined from using same, Seller will exert all reasonable efforts, at its option and at its expense, **(i)** to procure for Buyer the right to use such goods free of any liability for infringement, or **(ii)** to replace such goods with a non-infringing substitute otherwise complying substantially with all requirements of the contract of sale, or **(iii)** refund the purchase price and the transportation costs of such goods. **(e)** If the infringement by Buyer is alleged prior to completion of delivery of the goods under the contract of sale, Seller may decline to make further shipments without being in breach of the contract of sale, and provided Seller has not been enjoined from selling said goods to Buyer, Seller agrees to supply said goods to Buyer at Buyer's option, whereupon the indemnity obligations herein stated with respect to Seller shall reciprocally apply with respect to Buyer, this indemnity by Buyer applying to, but not limited to, all damages awarded under the applicable sections of 35 U.S.C. **(f)** If any Suit is brought against Seller based on a claim that the goods manufactured by Seller in compliance with Buyer's specifications as supplied to Buyer directly infringe any duly issued U. S patent, then the indemnity obligations herein stated with respect to Seller shall reciprocally apply with respect to Buyer. **(g)** The sale by Seller of the goods ordered hereunder does not grant to, convey or confer upon Buyer or Buyer's customers or upon anyone claiming under Buyer, a license, express or implied, under any patent rights of Seller covering or relating to any combination, machine or process in which said goods might be or are used. **(h)** Seller shall not be obligated to make any indemnification payment to the extent such payment, or any cost and expense incurred in connection therewith, is based upon a judgment, damages or royalty award, or other type or similar payment that is derived from, or calculated based upon, **(i)** the sale price or cost of any device connected to the goods or **(ii)** that incorporates or integrates the goods, or **(iii)** any other manner other than reasonable royalties or damages calculated based upon revenue derived by Seller from sales or license of the infringing goods to Buyer. The foregoing states the sole and exclusive liabilities of the parties hereto for patent infringement and is in lieu of all warranties, express, implied or statutory, in regard thereto.

14. DISCLAIMER OF LIABILITY. (a) In no event shall Seller be liable for any loss of use, revenue, profit, or for any direct, indirect, special or consequential damages arising out of, connected with, or resulting from the sale and use of goods. (b) If an unauthorized return is initiated by the customer, Seller will not be liable for any freight or handling charges incurred.

15. SELLER'S DISCLAIMER FOR LIFE SUPPORT APPLICATIONS. Except as otherwise specifically agreed with Buyer in a writing signed by an officer of Seller based at its corporate headquarters in Irvine, CA., Seller's goods are not designed, intended, or authorized for use as components in systems intended for surgical implant into the body, in other applications intended to support or sustain life, or for any other application in which the failure of the Seller's product could create a situation where personal injury or death may occur. (collectively "Life Support Applications")

16. BUYER'S INDEMNITY FOR LIFE SUPPORT APPLICATIONS

Buyer agrees to indemnify and hold Seller, and its officers, employees, subsidiaries, affiliates, agents, sales representatives and distributors harmless against all claims, costs, damages and expenses, and attorneys' fees and costs arising, directly or indirectly, out of any claims of personal injury, death or otherwise associated with the use of the goods in Life Support Applications, even if such claim includes allegations that Seller was negligent regarding the design or manufacture of the goods .

17. DESIGNS AND TRADE SECRETS. Any drawings, data, designs, software programs or other technical information supplied by Seller to Buyer in connection with the sale of goods shall remain Seller's property and be held in confidence by Buyer. Such information shall not be reproduced or disclosed to others without Seller's prior written consent in each particular instance.

18. ASSIGNMENT. Buyer shall not assign this Agreement, any contract of sale, any purchase order, any interest therein or any rights thereunder without the prior written consent of Seller.

19. MODIFICATION. This Agreement may not be changed, modified or amended, except in writing signed by authorized representatives of the parties.

20. EXPORT. These commodities may be subject to U.S. Government export controls. Diversion contrary to U.S. Law is prohibited; export may require validated export licenses.

21. REMEDIES. If Seller breaches its warranties as contained herein, Seller's sole and exclusive maximum liability shall be (at Seller's option) to repair, replace, or credit Buyer's account for any such goods which are returned by Buyer during the applicable warranty period set forth above, provided that (i) Seller is promptly notified in writing upon discovery by Buyer that such goods failed to conform to the contract of sale with a detailed explanation of any alleged deficiencies, (ii) such goods are returned to Seller, F.O.B. Seller's plant from which goods were shipped, and (iii) Seller's examination of such goods shall disclose that such alleged deficiencies actually exist and were not caused by accident, misuse, neglect, alteration, improper installation, improper testing or unauthorized repair. If such goods fail to conform to the applicable warranty, Seller shall reimburse Buyer for transportation charges paid by Buyer for such goods. If Seller elects to repair or replace such goods, Seller shall have a reasonable time to make such repairs or replace such goods, and such repair, replacement or credit shall constitute fulfillment of all liability of Seller to Buyer whether based in contract, tort, indemnity, statutory provision or otherwise.

22. ALTERNATE DISPUTE RESOLUTION (ADR). (a) Any dispute between the Parties arising from or related to the subject matter of this Agreement will first be discussed by the high-ranking executives of each company, each of whom shall be fully authorized to settle the dispute. If such dispute cannot be resolved by such high-ranking executives, then the dispute shall be mediated before an impartial, neutral Mediator mutually agreed to by the Parties within twenty (20) days following failure to resolve the dispute. Any Mediation fee shall be divided equally between the Parties. If any Party commences Arbitration without first attempting to resolve the matter through Mediation, then in the discretion of the Mediator, that Party shall not be entitled to recover attorneys' fees, even if they would otherwise have been available to that Party. (b) Any disputes arising hereunder, which the parties cannot resolve in good faith within three (3) months of the date of written request for Mediation, shall be submitted to a mutually acceptable impartial and neutral arbitrator of the Judicial Arbitration and Mediation Services (JAMS) for Arbitration in accordance with its rules and procedures. (c) Each party shall be responsible for all costs associated with the preparation and representation by attorneys, or any other persons retained thereby, to assist in connection with any such Arbitration. However, all costs charged by the mutually agreed upon Arbitration entity shall be equally shared by the parties. (d) The party seeking Mediation and/or Arbitration as provided herein agrees that the venue for any such Mediation and Arbitration shall be selected by the other party and that such venue must be within the United States of America; whereby the applicable law and provisions of the Evidence Code of the State selected thereby shall be applicable and shall govern the validity, construction and performance of this Agreement.

23. APPLICABLE LAW AND VENUE. Except as provided in Section 22 above, if legal action is commenced by either party, the validity, construction and performance of this Agreement, and the legal relations between the parties shall be governed by the State of California, and the venue for such legal action shall be Orange County, California. Seller may commence any action to collect moneys due on account of goods purchased by Buyer hereunder in any court having competent jurisdiction of the subject matter in dispute without resorting first to any alternative dispute resolution.

24. RIGHT TO SEEK INJUNCTIVE RELIEF. Nothing in this Agreement will be deemed to prevent either Party from seeking injunctive relief or any other provisional remedy in an appropriate case in any court of competent jurisdiction of the subject matter in dispute as necessary to protect either Party's trade name, proprietary information, trade secrets, trademarks, know-how, or any other intellectual property rights.;

25. LIMITATION OF LIABILITY. Except for intentional wrongdoing, fraud or criminal conduct, the obligations of the parties under any sales contract with Seller shall not constitute the personal obligations of their shareholders, or of their directors, officers, employees, consultants, agents or invitees, and each party shall look only to the assets of the other party for the satisfaction of any liability with respect to any such sales contract, and shall not seek recourse against the shareholders of the other party, or against the directors, officers, employees, consultants, agents, or invitees of the other party, or against their personal assets for such satisfaction.