

**MICROSEMI CORPORATION  
PURCHASE ORDER TERMS AND CONDITIONS  
APPLICABLE ONLY WHEN MICROSEMI IS PURCHASING PRODUCTS OR SERVICES**



1. **ACCEPTANCE:** The purchase order, together with these terms and conditions, as may be changed by Microsemi (defined below) from time to time, and any attachments and exhibits (collectively the "Purchase Order"), constitutes the entire and exclusive agreement between Microsemi Corporation and any of its direct and indirect subsidiaries (each referred to as "Microsemi") and the supplier identified in the Purchase Order ("Supplier"). Acceptance of this Purchase Order by Supplier is expressly limited to the terms and conditions contained in the Purchase Order. Any additional or different terms and conditions stated by Supplier in any proposal on Supplier's acknowledgement form or otherwise are deemed to be a material alteration of this Purchase Order and are hereby objected to by Microsemi and shall be inapplicable to this Purchase Order unless specifically agreed to in writing by Microsemi signed by an officer of Microsemi. Microsemi's failure to object to provisions contained in any communication from Supplier shall not be deemed a waiver of any of the provisions contained herein. Supplier shall issue an order acknowledgement within three (3) days from receipt of this Purchase Order, which shall include a scheduled date of delivery.

2. **PAYMENT:** Unless otherwise agreed to in writing signed by an authorized representative of Microsemi, payment to Supplier will be made seventy-five (75) days from the later of the date such invoice is received by Microsemi or the date of receipt by Microsemi of the products or services to which such invoice applies. Payment of any invoice shall not constitute acceptance of the products or services or a waiver of any right to test or inspect the products and shall be subject to adjustment in the event Supplier fails to meet the requirements of this Purchase Order.

3. **PRICES:** Unless otherwise specified on the face of this Purchase Order, prices include all applicable taxes except sales taxes, which are separately shown when applicable. Supplier warrants that the prices charged for the products or services will be as low as the lowest prices charged by the Supplier to any customer purchasing similar goods or services. Prices shall not be higher than those last quoted or charged to Microsemi unless otherwise agreed to in a signed writing.

4. **PACKING AND SHIPMENT:** All products shall be packed by Supplier in suitable containers for protection in shipment and storage. No charge shall be made for packaging or storage. Products must be packed and shipped in accordance with good commercial practices to secure lowest possible freight or express charges. Supplier shall mark on containers shipping instructions and information, order number, item and account number, shipment date, and names and addresses of Microsemi and Supplier. Shipment of products shall be F.O.B. Unless otherwise specified in this Purchase Order, the F.O.B point shall be to Microsemi's location designated in this Purchase Order. Supplier shall bear all risk of loss or damage to the products and title shall not shift to Microsemi until delivery of the products to Microsemi's location.

5. **DELIVERY:** Time is of the essence for this Purchase Order. Failure by Supplier to meet delivery dates specified in this Purchase Order shall constitute a material breach of the Purchase Order and Microsemi may, in its sole discretion: (i) cancel the Purchase Order in whole or in part; (ii) extend the time for delivery; and/or (iii) require Supplier to ship all or part of the products by prepaid air freight at Supplier's expense until Supplier's deliveries are in accordance with the requirements of the Purchase Order. Supplier agrees to pay Microsemi any penalty and/or damages imposed upon or incurred by Microsemi resulting from Supplier's failure to deliver the products or services on the specified delivery dates. Microsemi may return or store at Supplier's expense any products delivered more than ten (10) days in advance of the delivery date specified for such products, unless otherwise agreed to in writing.

6. **CHANGES:** Microsemi shall not accept any changes to this Purchase Order, including but not limited to specifications, processes, key suppliers, or changes in Supplier's manufacturing location, unless agreed to in advance in a writing signed by an authorized representative of

Microsemi. Microsemi may make changes in the specifications and drawings on any item at any time. Any delays or additional costs incurred by Supplier as a result of such changes shall be subject to an equitable adjustment of price and delivery schedule.

7. **RESCHEDULE AND CANCELLATION:** Microsemi may reschedule, cancel or change all or any part of a Purchase Order at any time for convenience upon written notice to Supplier. Upon receipt of Microsemi's notice, Supplier shall cease all work under the Purchase Order. Microsemi shall only be liable to Supplier for services satisfactorily performed to the date of termination for custom products (but not standard products) and products or services delivered and accepted by Microsemi. Supplier shall present to Microsemi in writing any claim for reimbursement within twenty (20) days of Supplier's receipt of Microsemi's written notice. Supplier shall mitigate its claim to the fullest extent possible, and Supplier grants Microsemi the right to audit Supplier's books and records related to such reimbursement claim. Cancellation or termination by Microsemi will not constitute a waiver or release of any rights and remedies of Microsemi.

8. **INSPECTION:** All products are subject to final inspection and approval at Microsemi's location or other place designated by Microsemi. Microsemi's failure to accept or reject products or detect defects during inspection does not relieve Supplier of its responsibilities to provide products in accordance with Purchase Order requirements.

9. **CONFIDENTIAL INFORMATION:** Any information that Microsemi discloses to Supplier, including but not limited to, prints, designs, product development plans, marketing plans, business information, vendor lists, trade secrets, drawings, schematics, technical specifications, manufacturing techniques, forecasts, financial information, customer lists or other documents in connection with this Purchase Order, shall be deemed Microsemi confidential, proprietary information. Supplier shall keep confidential and otherwise protect from disclosure such information. Supplier shall use all information only in the performance of and for the purpose of the Purchase Order. Supplier shall protect the information by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, disclosure, dissemination or publication of the information as Supplier uses to protect its own comparable confidential and proprietary information. Upon Microsemi's request, and in any event upon the completion or cancellation of the Purchase Order, Supplier shall promptly return to Microsemi all information. Supplier represents that its employees are contractually obligated not to disclose information obtained by Supplier's employees in the course of their employment and agree that only those employees who have a "need to know" for the purpose of this Purchase Order shall have access to such information. Microsemi shall at all times be the sole and exclusive owner of its confidential information. All tools, equipment, dies, drawings or other materials paid for or furnished by Microsemi under the Purchase Order shall be and remain the sole property of Microsemi.

10. **WARRANTY:** Supplier warrants that all products and/or services that are furnished hereunder: (i) are free from faulty workmanship or the use of defective materials; (ii) conform to the specifications, drawings, sample or other descriptions furnished or specified by Microsemi or furnished by Supplier and accepted by Microsemi; (iii) do not infringe any patent, trademark, trade secret, copyright or other intellectual property rights or proprietary rights of any third party; (iv) will be of merchantable quality and will be fit for their ordinary intended purpose as well as any special purpose specified by Microsemi; (v) are new and have not been previously used. Supplier also warrants that it has good title to the items, free from all encumbrances. These warranties will survive any inspection, delivery, acceptance, or payment by Microsemi for the products and/or services and are in addition to, and shall not be construed as restricting or limiting any warranties of Supplier, express or implied, that are provided by law or exist by operation of law. In addition to the warranties above, Supplier shall extend all warranties that it receives from its vendors to Microsemi and Microsemi's customers.

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In addition to the foregoing warranties, Supplier warrants the products against epidemic failure. An epidemic failure shall mean a substantially similar repetitive root cause, failure, mode or defect that occurs in such products indicating a common systemic failure and resulting in a two percent (2%) or greater failure of Supplier's products during the three year period following delivery of the products to Microsemi. The party that discovers the epidemic failure shall notify the other promptly; provided, however, that in the event Supplier discovers a failure that creates a risk of injury or death, Supplier will notify Microsemi without delay and will also provide Microsemi with written notice within twelve (12) hours of any notification made by Supplier to any governmental body responsible for regulation of product safety. Supplier and Microsemi shall establish, within ten (10) days notice by either party upon discovery of such epidemic failure, a mutually agreed upon emergency procedure to resolve and replace all defective products. Any and all costs associated with the emergency procedure are to be borne solely by Supplier. Supplier also agrees to inform Microsemi in writing of any other epidemic failures occurring in products sold to Supplier's other customers.

**11. TERMINATION:** Microsemi may terminate this order at any time by notice in writing to Supplier. In such event Microsemi shall not be liable for any termination, cancellation, charge back or restocking charges and in no event shall Microsemi be liable for any loss of profits on the Purchase Order or portion thereof so terminated.

**12. OBSOLESCENCE:** If production of any products or the performance of any services is to be discontinued at any time within one (1) year after final delivery of such products or performance of such services under any order, Supplier shall give Microsemi at least 180 days prior written notice of such discontinuance, during which Supplier shall accept orders from Microsemi for reasonable quantity of such products or services.

**13. INDEMNITY:** Supplier shall, at Microsemi's option, defend Microsemi (and its agents, employees, officers and directors) against each and every demand, claim, assertion of liability or other legal action arising or alleged to arise, directly or indirectly out of: (i) the possession, use, sale handling or consumption of any goods sold or delivered by Supplier pursuant to this Purchase Order; (ii) any act, omission or failure to perform the obligations or requirements hereunder of Supplier or imposed by law; or (iii) with respect to the products provided by Supplier hereunder, one or more of the following situations arising from or related thereto: (a) any damages, sickness, injury or death to persons; (b) damages or injury to property, whether of Microsemi's or otherwise; (c) inaccurate, incomplete or false labeling or description; (d) defects in quantity or quality; or (e) breach of any warranty, express or implied, whether included herein or otherwise, and, with respect to (i), (ii) and (iii) above, Supplier shall assume legal responsibility for, indemnify and hold Microsemi free and harmless (and its agents, employees, officers and directors) against any and all loss, damage, fines, liabilities, costs and expenses (including, but not limited to attorney fees, court costs, and reasonable investigative and discovery costs) and other sums which Microsemi (or its agents, employees, officers or directors) may reasonably pay or may become obligated to pay on account of each and every such demand, claim, assertion of liability or action. Microsemi agrees to notify Supplier promptly in writing in the event any such claim, demand, assertion of liability or action, is brought to Microsemi's attention.

**14. PATENT INDEMNITY:** Supplier shall defend any suit or proceeding brought against Microsemi insofar as such suit or proceeding is based on a claim that any products manufactured and/or supplied by Supplier to Microsemi constitute direct or indirect infringement of any patent, and Supplier shall pay all damages, including attorney's fees, and costs finally awarded therein against Microsemi. If the products manufactured and/or supplied by Supplier to Microsemi shall be held to infringe any patent, and Microsemi shall be enjoined from using the same, Supplier will exert all reasonable efforts, at Microsemi's option and at Supplier's expense to: (i) procure for Microsemi the right to use such

products free of any liability for patent infringement; (ii) replace such goods with a non-infringing substitute otherwise complying substantially with all requirements of this Purchase Order; or (iii) refund the purchase price and any costs associated therewith.

**15. LIMITATION OF LIABILITY:** Notwithstanding anything herein, or in any other document applicable to any transaction between Supplier and Microsemi, both parties acknowledge that (A) in no event shall Microsemi be liable for any loss of revenue, profit or for indirect, special, incidental, consequential or punitive damages to person or property arising out of or connected with the Purchase Order; and (B) in no event shall Microsemi's liability in connection herewith or resulting from (i) the sale or use of any product supplied by Supplier or (ii) any services performed by Supplier hereunder, exceed the amounts paid to Supplier by Microsemi under the applicable Purchase Order in the six (6) months preceding the action(s) which are the subject of and directly affected by such claims.

**16. REMEDIES:** If Supplier breaches its warranties as specified herein, Supplier shall, at Microsemi's option, repair or replace any products which are returned by Microsemi during the applicable warranty period set forth herein, or refund to Microsemi monies paid by Microsemi for such products or services. Supplier shall reimburse Microsemi for any expenses or costs associated with such return, including transportation charges.

**17. APPLICABLE LAW:** This Purchase Order shall be governed by and construed under the laws of the state of California without reference to its conflict of laws rules or any other rules that would result in the application of a different body of law.

**18. ALTERNATE DISPUTE RESOLUTION:** Any dispute between Microsemi and Supplier arising from or related to this Purchase Order or the subject matter hereof, including its validity, construction or performance thereunder, shall be exclusively resolved through arbitration by a mutually acceptable impartial and neutral arbitrator appointed by the Judicial Arbitration and Mediation Services (JAMS) in accordance with its rules and procedures. If the parties are not able to agree on an arbitrator within ten (10) days of the date of request for mediation is served, then JAMS shall appoint an arbitrator. Notice of arbitration shall be served and filed with the JAMS main offices in Irvine, California. 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. 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 Los Angeles, California; 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 Purchase Order.

**19. FORECAST:** Any Microsemi forecasts furnished under a Purchase Order are presented in good faith and are nonbinding on Microsemi. Microsemi shall only be liable for actual Purchase Order releases made by Microsemi.

**20. WAIVER:** Each shipment made under any Purchase Order shall be treated as a separate sale and transaction, but in the event of any default by Supplier, if Microsemi elects to continue to accept shipments, its action shall not constitute a waiver of any default by Supplier or in any way affect Microsemi's legal remedies for any such default. If any provision of the Purchase Order is found to be illegal or otherwise unenforceable by any court or other judicial or administrative body, the other provisions of this Purchase Order shall not be affected hereby and shall remain in full force and effect.

**21. COMPLIANCE WITH LAWS:** Supplier agrees and warrants that it shall comply, at its own expense, with all federal, state, and local

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laws, ordinance rules and regulations, including but not limited to all export control, import, employment, tax, environmental relating in any way to the production, manufacture, sale, and delivery of the products or performance of services. Supplier certifies that materials incorporated into goods delivered to Microsemi under this Purchase Order comply with the laws regarding slavery and human trafficking of the country or countries in which Supplier is doing business. Supplier further agrees that it will comply with, and will use reasonable endeavors to ensure that any third party used by Supplier to fulfill its obligations will comply with, all applicable laws, rules, regulations, decrees, or official governmental orders of any applicable government, including the US and UK, relating to any applicable subject matter and relating to anti-bribery, anti-corruption and/or anti-money laundering, and any other anti-corruption laws, applicable to the Supplier or Microsemi in connection with this transaction. Supplier will defend and hold Microsemi harmless for any loss, damages or costs arising from or caused in any way by any actual or alleged violation of the aforementioned laws and regulations.

**22. U.S. GOVERNMENT CONTRACTS:** To the extent the products and services hereunder are for use in connection with a U.S. Government prime contract or subcontract, in addition to these terms and conditions, the FAR/DFAR provisions as required by the terms of the prime contract, regulation or by operation of law are herein incorporated by reference and made part of this subcontract or Purchase Order. Without limiting their obligations to comply with applicable laws, Supplier and its subcontractors at all tiers (i) shall comply with the Equal Opportunity clauses applicable to the subcontract or Purchase Order (unless otherwise exempted by the applicable regulations), including but not limited to (a) for subcontract or Purchase Order in excess of \$10,000, 41 CFR 60-1.4 which prohibits the discrimination against any employee for employment because of race, color, religion, sex, sexual orientation, gender identity or national origin and 41 CFR 60-741.5(a), Section 503 of the Rehabilitation Act of 1974, which prohibits discrimination against qualified individuals on the basis of disability; (b) for subcontract or Purchase Order in excess of \$100,000, 41 CFR 60-300.5(a), Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), which prohibits discrimination against qualified protected veterans and (ii) are required to take affirmative action to employ and advance in employment employee or applicant for employment without regards to race, color, religion, sex, national origin, age, sexual orientation or gender identity.

**23. INSURANCE:** Supplier shall provide insurance coverage for its liability and indemnity obligations hereunder with reputable carriers and in amounts commensurate with industry standards for the products or services involved.

**24. PUBLICITY:** Supplier shall not use Microsemi's name, or any trademark of Microsemi, or refer to Microsemi directly or indirectly, in any advertisement, sales presentation, or news release without Microsemi's prior written approval from an officer of Microsemi at its corporate headquarters in Aliso Viejo, California.

**25. FORCE MAJEURE:** No failure, delay or default in performance of any obligation hereunder shall constitute an event of default or a breach of this Purchase Order, to the extent that such failure to perform, delay or default arises out of a cause, existing or future, that is beyond the reasonable control and without negligence of the party otherwise chargeable with failure, delay or default, including, but not limited to; fire, flood; war; riot; theft; earthquake; natural disaster, act of terrorism, negligence or default of the other party (each of the foregoing shall be referred to herein as a "Force Majeure Condition"). Either party desiring to rely upon any Force Majeure Condition as an excuse for failure, default or delay in performance shall, when such Force Majeure Condition arises, give to the other party prompt notice in writing of the facts which constitute said Force Majeure Condition; and, when the Force Majeure Condition ceases to exist, give prompt notice thereof to the other party. Notwithstanding the foregoing, if such Force Majeure Condition persists for more than ten (10) days, then Microsemi

may cancel the affected Purchase Order upon written notice to Supplier, without any liability to Supplier.

**26. EXPORT CONTROLS:** Supplier further agrees and warrants that it shall comply with all export controls, including the International Traffic in Arms Regulations ("ITAR") and the Export Administration Regulations ("EAR"), and Supplier will not supply any services or products that are ITAR-controlled without first notifying Microsemi in writing of the ITAR-controlled status of the product or service. If applicable, Supplier shall provide Microsemi at time of sale with the appropriate U.S. Export Control Classification Number for Supplier's product, as determined on the Commerce Control List of the EAR. Supplier further agrees to obtain all necessary export licenses for Supplier's products or for the provision of Supplier's services to Microsemi.

**27. ISO 9001:** In accordance with ISO 9001 quality control systems and related certification, a physical inspection of Supplier's facility may be required for Microsemi's customer to satisfy certification requirements. Upon written notice from Microsemi's customer, Supplier agrees to make its facilities and procedures reasonably available for a site inspection for physical audit, if required for customer to meet ISO certification requirements.

**28. ASSIGNMENT AND SUBCONTRACTS:** Supplier will not delegate any duties, nor assign any rights or claims under the Purchase Order, or for breach thereof, without the prior written consent of Microsemi from an officer of Microsemi at its corporate headquarters in Aliso Viejo, California. Any attempted delegation or assignment will be void.

**29. AS9100 FLOW DOWN REQUIREMENTS:** (i) All machinery supplied to Microsemi's facility must be CE compliant; (ii) Supplier shall maintain, for a minimum period of 3 years, all records related to quality and manufacturing processes; and (iii) Microsemi, its customers and Regulatory Authorities reserve the right to perform audits and/or inspections at the Supplier's locations and/or Supplier's subcontractor locations. When onsite verification of Purchase Order conformance is required, Supplier shall provide the equipment, facilities and personnel necessary for Microsemi's representatives to verify compliance.

**30. SURVIVAL:** The rights and obligations of the parties which by their nature survive termination or completion of this Purchase Order, including but not limited to those set forth herein titled Publicity; Indemnity; Patent Indemnity; Warranty; Confidential Information; Applicable Law; Alternate Dispute Resolution; and Limitation of Liability shall remain in full force and effect.