

E-FAB, INC. Terms and Conditions

1. GENERAL

The terms and conditions set forth herein, together with any additional terms and conditions set forth in Seller's Order Acknowledgement, shall constitute the entire agreement between E-FAB INC. ("Seller") and Buyer for the purchase of Seller's Product. Seller will not be bound by any terms of Buyer's order that are inconsistent with the terms hereof. No contract shall exist except upon Buyer's acceptance of Seller's offer to sell Product upon these Terms and Conditions. All purchase orders must be approved and accepted via electronic file or email by Seller and no term or condition contained in any purchase order form that varies from, or conflicts with, any of these Terms and Conditions shall become part of the contract for the purchase of Product unless such term or condition is expressly accepted in writing by Seller's authorized representative. No waiver by Seller of any default or provision hereof shall be deemed a waiver of any other default or provision.

2. PRODUCTS PROVIDED AND PRICE

Prices quoted are only for the Product or Service (if any) set forth in Seller's Quotation Form and do not include technical data, patent or other proprietary rights of any kind or tests other than Seller's standard tests unless expressly agreed to via electronic file or email by Seller. Unless otherwise stated by Seller in writing, all quotations are firm for, and unless noted, expire, thirty (30) days after the date thereof.

Prices do not include Federal, State, or local sales, excise, or use taxes applicable to the Product or services incident to this transaction. Applicable taxes will be included on the invoice unless Buyer provides Seller with a proper tax exemption certificate. In the event Seller is required to pay any such tax, Buyer shall promptly reimburse Seller therefore.

The obligation of Seller to provide Product, as well as any technical assistance, shall be subject to such United States laws and regulations as shall govern the license and delivery of technology and product abroad by persons subject to the jurisdiction of the United States, including the Export Administration Act of 1979, as amended, any successor legislation, and the Export Administration Regulations issued by the Department of Commerce. Buyer warrants that it will comply fully with the Export Administration Regulations and all other applicable United States laws and regulations governing exports.

3. PAYMENT TERMS AND SECURITY INTEREST

(a) Unless otherwise stated, the terms of sale for Product are Net 30 days from date of invoice. All amounts payable shall be invoiced and paid in United States Dollars and all payments shall be made to Seller at its office in Santa Clara, California, or to such other location as Seller may designate. Interest accrues on the unpaid balance of overdue invoices at the lesser of one and one-half percent (1.5%) per month, or the highest rate allowed by law, from the original due date of the invoice.

4. SHIPMENT, RISK OF LOSS AND INSURANCE

Unless otherwise agreed to in writing by Seller, title and risk of loss or damage shall pass to Buyer upon delivery of the Product to the transportation company at Seller's facility. Seller reserves the right to ship Product freight collect and to select the means of transportation and routing if not previously designated by Buyer. Unless otherwise advised, Seller will insure Product to their full value or declare full value thereof to the transportation company and all shipping and insurance costs shall be for Buyer's account and Buyer agrees to reimburse Seller for the cost of shipping and insurance. Confiscation, destruction of, or damage to, Product shall not release, reduce or in any way affect Buyer's obligation to pay for same.

5. RETURN OF PRODUCTS

Product may not be returned to Seller without first obtaining Seller's return materials authorization (RMA). A request for return authorization must be filed with Seller no later than six months after ship date and shall include P.O. number, approximate date shipped and any other identifying numbers (such as invoice number and date, etc.). Any request for return of Product for credit must state the Product quantity, the part number and the reason or reasons for the return. If return authorization is granted, Product shall be returned in Seller's original packaging materials. If original packaging materials are no longer available, Buyer shall contact Seller for packaging instructions. No credit allowance for defective Product will be made, nor will any replacement for any such Product be provided, unless the alleged defects are established to Seller's reasonable satisfaction after suitable testing and inspection. Notwithstanding any defect or nonconformity, or any other matter, all risk of loss shall remain with Buyer until the Product is returned to such location as Seller shall designate in writing. Buyer, at its expense, shall fully insure such Product against all loss or damage until Seller has been paid in full therefore, or the Product has been returned to Seller.

6. PERFORMANCE

Seller will make all reasonable efforts to observe dates indicated for delivery or any other performance. However, Seller shall not be liable in any way for delays in performance hereunder due to unforeseen circumstances or to causes beyond its control, including, without limitation, strikes, lockout, riot, war, fire, act of God, accident, subcontractor, supplier or Customer caused delays. Performance shall be deemed suspended during and extended for such time as any such circumstances or causes delay its execution. Whenever such circumstances or causes have been remedied, Seller will make and Customer shall accept performance hereunder. In addition: Seller's inventories and current production must be allocated so as to comply with applicable Government regulations. In the absence as such regulations, no penalty clause of any kind shall be effective. As used herein, "performance" shall include, without limitation, fabrication, shipment, delivery, testing, and warranty repair or replacement, as applicable. one-half percent (1.5%) per month, or the highest rate allowed by law, from the original due date of the invoice.

7. BLANKET ORDERS

For our mutual convenience and economy, large-volume, steady-running items may be ordered for extended delivery periods up to one (1) year from date of first shipment. To realize economy from this, minimum release quantities and Customer obligation in the event of unexpected cancellation must be mutually agreed and specified on the purchase order before acceptance can be given. With or without Customer releases, all parts not shipped within one (1) year from date of first shipment will be shipped and billed. The order will be closed. In the event of early cancellation, retroactive billing to correct quantity pricing may be applied.

8. SETUP CHARGE

A setup charge will be applied to cover partial tooling costs for new and/or revised parts. This will be a one-time service charge covering a portion of the preparatory operations necessary to manufacture Buyer's part, but does not constitute payment for any resulting dies or special tools which remain the property of E-FAB INC. A second "Set up" charge may apply if major changes to part occur. Tooling will be reserved for exclusive use in manufacturing Buyer's part, and no charges for maintenance will be applied unless specifically stated on the face of the quotation. When tooling has not been used over a three-year period, E-FAB INC reserve the right to destroy it without notice.

9. QUOTATIONS AND PRICES

Seller's prices and quotations are subject to the following:

(a) UNLESS OTHERWISE SPECIFIED IN WRITING, ALL QUOTATIONS ARE FIRM FOR, AND EXPIRE, THIRTY (30) DAYS AFTER DATE THEREOF

AND CONSTITUTE OFFERS; provided that, budgetary quotations and estimates are for preliminary information only and shall neither constitute offers, nor impose any responsibility or liability upon Seller.

(c) Unless otherwise stated in writing by Seller, all prices quoted shall be exclusive of transportation, insurance, taxes (including without limitation, any sales, use, or similar tax, and any tax levied on or assessed to Seller after Product delivery by reason of Seller's retention of title as provided herein), license fees, customs fees, duties and other charges related thereto, and Customer shall report and pay any and all such shipping charges, premiums, taxes, fees, duties and other charges related thereto, and shall hold Seller harmless therefrom; provided that, if Seller, in its sole discretion, chooses to make any such payment, Customer shall reimburse Seller in full upon demand.

(d) Typographical and clerical errors are subject to correction.

10. SUSPECT/COUNTERFEIT PARTS

Seller shall only deliver goods that are and only contain materials obtained directly from the original manufacturer (OM), an authorized distributor, or an authorized aftermarket manufacturer, and are not counterfeit, do not contain Counterfeit or Suspect Counterfeit Items and contain only authentic, unaltered OM labels and other markings. Seller certifies, to the best of its knowledge and belief, that no such parts

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have been or are being furnished to Buyer. Seller shall obtain and retain all documentation required to fully trace the distribution and sale of the goods delivered hereunder back to the relevant OM, and will be able to provide such authenticating documentation. Upon Buyer's request, Seller shall provide Buyer certificates of conformance with respect to the goods delivered. Buyer reserves the right to seize and quarantine any / all suspected counterfeit products it receives from seller on this Purchase Order. Suspect counterfeit products may be forwarded to the Original Component Manufacturer and / or the appropriate Federal or State authorities for final analysis, possible confiscation and / or destruction. If products furnished by the Seller are determined to in fact be counterfeit, Seller agrees to reimburse Buyer on the full purchase price paid as well as any shipping or 3rd party testing charges incurred by Buyer.

11. INSPECTION AND ACCEPTANCE

Buyer's final acceptance of Goods or Services is subject to Buyer's final inspection within forty-five (45) days after receipt at Buyer's facility. Seller and its suppliers shall establish and maintain a quality control and inspection program as specified in the Purchase Order. Subject to applicable national security regulations, Buyer and Buyer's representatives shall have the right of access, on a non-interference basis, to any area of Seller or Seller's suppliers. The Seller is required to flow-down to subcontractors any applicable requirements in the purchasing documents, including key characteristics where required.

Seller shall, without additional costs to Buyer, provide all reasonable in-plant accommodations, facilities, and assistance for the safety and convenience of the Buyer and the Buyer's representatives in the performance of their duties. Seller shall keep and maintain inspection, test and related records, which shall be available to Buyer or Buyer's representative. Seller shall allow copies to be made and shall furnish all information required by the Buyer or Buyer's representative. Seller shall grant access and cause access to be granted at any level within the Seller's supply chain involved in the order to the Buyer and the regulatory authorities to the applicable areas of all facilities and all applicable records. Seller is required to obtain Buyer's approval in respect to any changes to original design or specifications prior to completion of the work and shipment. Seller agrees to convey to the Buyer any information about non-conformant goods and will follow any disposition procedures further communicated by the Buyer.

12. CONTROL OF RECORDS

All Quality records such as Material/Process certifications, Inspection Reports, Test Reports, Micro-Section Reports, First Article Reports, Process Logs, Work Order Travelers/Routers, etc, shall be maintained for a minimum of seven years, unless otherwise specified in the purchase order, and shall be made available to Buyer for review upon request. Seller agrees that Buyer must be notified in writing 30 days prior to destruction of any records pertaining to Buyer's purchases.

13. CALIBRATION SERVICES

Sellers providing calibration services to Buyer shall have a Quality System compliant with ISO9001 (or equivalent). In addition, such Seller shall be compliant with ISO/IEC 17025 and ANSI/NCCL Z540-1. This provision flows to all suppliers throughout the procurement chain.