



## SUPPLIER PURCHASE ORDER TERMS AND CONDITIONS

- 1. Precedence.** This "Purchase Order Terms and Conditions" ("Terms") is a part of the contract between Dexter Research Center, Inc. ("DRC") and the supplier identified on DRC's Purchase Order ("Seller") for the acquisition of goods ("Products") identified in DRC's Purchase Order ("PO"). These Terms supersede any provisions of Seller's documents that are inconsistent with or in addition to the Terms. The PO and these Terms comprise the entire agreement between the parties with respect to Products purchase by DRC from Seller.
- 2. Shipping; Invoices.** All items shipped by Seller shall be prepared and packaged for shipment in a manner that will prevent damage in transit. DRC is not liable for charges (*e.g.*, packing, cartage, shipping, taxes, insurance, or duties) unless pre-authorized by DRC. For requests for expedited delivery and deliveries outside of the U.S. and Canada, DRC shall pay transportation costs specified in the PO. If the PO is labeled "RUSH" or "HIGH PRIORITY," Seller shall use the most expeditious form of transportation, at DRC's costs. Otherwise, Seller shall use the least expensive carrier. DRC's PO number must appear on all containers, packing sheets, delivery tickets and bills of lading. All containers shall contain packing sheets listing each item in the order and the related identification number. All invoices to be sent to Dexter Research Center, Inc., Accounts Payable, 7300 Huron River Drive, Dexter, Michigan 48130 U.S.A. DRC shall have no liability to pay incorrect or incomplete invoices.
- 3. Risk of Loss.** Risk of loss shall pass at FOB destination for shipments within the U.S. or Canada, and FCA Free Carrier (Incoterms 2000) for international shipments.
- 4. Time is of the Essence.** TIME IS OF THE ESSENCE IN THE MANUFACTURE, SHIPMENT, AND DELIVERY OF PRODUCTS. Seller shall give DRC prompt notice of any event that could reasonably affect Seller's ability to deliver Products pursuant to the terms of any Purchase Order, by way of example, labor dispute, shortage of proper raw materials and components, natural disaster, man-made disaster, inability to secure licenses, or government action. DRC shall not have any obligation to reimburse Seller for losses or additional cost incurred by Seller as a result of such events, and failure by Seller to meet delivery schedules as a result of such events shall entitle DRC to terminate any PO, or the contract with Seller, without further liability. Shipments received earlier than three days prior to scheduled delivery date will be refused unless pre-authorized.
- 5. Inspection.** All Products and services shall be subject to inspection by DRC, at the location of manufacture or testing, at reasonable times. DRC's inspection of Products before or after delivery shall not constitute acceptance. No inspection or test made prior to final acceptance shall relieve Seller from the responsibility for defects in the Products or the failure of the Products to meet any specifications.
- 6. Testing.** Prior to delivering any mechanical or electronic Product, Seller shall test the Product and certify to DRC its conformance with all Product specifications or descriptions. Upon request, Seller shall provide the testing protocol and results.
- 7. Change Control / Quality Assurance.** No substitutions or modification of any goods, component parts, tooling, sources of raw material, processes, or manufacturing sites may be made without DRC's prior written consent. The supplier also agrees to flow down this requirement to the lowest sub-tier supplier in writing.
- 8. Delivery; Initial Acceptance of Products.** Products are not "delivered" until actually received by DRC (or its customer, if drop-shipped). Items delivered in error shall be returned at Seller's expense. After delivery of Products, DRC shall have thirty (30) days to preliminarily test a Product to determine whether it materially conforms to the applicable specifications. If DRC provides notice and documentation that the Product fails to conform in any material respects, Seller shall immediately use its best efforts to remedy that nonconformity within ten (10) business days. In the event that Seller is unable to remedy such nonconformity, DRC may (i) reject the Product and obtain a refund of any fees and expenses paid for such Product, (ii) terminate the remainder of any contract or PO relating to such Products, or (iii) give Seller another attempt to remedy the nonconformance. Seller shall reimburse DRC for all costs and expenses incurred in connection with Seller's failure to deliver conforming Products.
- 9. Priority Treatment.** Seller will give fulfillment of POs from DRC first priority over other orders received concurrently. If, for any reason, Seller expects it will be unable to ship Products in accordance with the timeframes in a PO, it shall immediately notify DRC so that DRC may determine the best options for itself and its customers.
- 10. Final Acceptance of Products.** Seller acknowledges that Products may be purchased by DRC, paid for and inventoried, but not inspected, integrated with other components, or tested for many months. Accordingly, Products are deemed "Accepted" six (6)

months after receipt of Product by DRC unless, within that time period, DRC provides Seller documentation that the Products delivered do not conform to the applicable Order. Seller will use its best efforts to promptly replace or supplement the Products with conforming Products. If Seller is unable to do so to the reasonable satisfaction of DRC, DRC shall be entitled to terminate the Order and receive a refund of fees paid, and to terminate further performance under this contract. These remedies for delivery are in addition to the warranties provided below.

**11. Change Orders.** DRC may, at any time prior to shipment, modify a PO via a Change Order in any of the following respects: Product identification, quantity, ship date, packing requirements, or delivery schedules. Seller shall promptly notify DRC of any change in the cost or expected completion/delivery dates for the Products as a result of the DRC Change Order, and Seller shall provide final pricing (with supporting information) to DRC no later than ten (10) days from the date of Seller's receipt of DRC's Change Order. DRC shall confirm in writing whether it accepts or rejects the proposed new terms of purchase..

**12. Services Warranty.** All professional and technical services will be carried out by persons who are qualified and competent to perform such services. Seller warrants that its performance of duties under its contract with DRC will not conflict with any duties owed to any third party.

**13. Product Warranties and Remedies.** Seller warrants that Products shall materially conform to their applicable specifications and documentation, and shall be free from defects in materials and workmanship, for a period of two (2) years following Acceptance when used as set forth in Seller's documentation. All Products provided will be new and will not be repaired, refurbished, or remanufactured. During the warranty period, Seller will use its best efforts to repair or replace any nonconforming Product within ten (10) days after receipt of written notice of such nonconformance and DRC's provision of any data, output, or other documentation or description of the nonconformance; provided that Seller shall provide new, conforming Products by overnight shipment if so requested by DRC. Seller shall maintain an inventory of Products sufficient to provide warranty support and repair anywhere in the world within twenty-four (24) hours notice of a warranty claim by DRC or its customer. Seller shall compensate DRC for any costs, expenses, damages, and losses attributable to Seller's delivery of defective Products. The duration of the warranty shall be extended by any time period of non-use due to breach of warranty. These remedies are in addition to other remedies provided by the Uniform Commercial Code.

**14. Warranty of Title; Noninfringement.** Seller warrants that it has and will provide DRC with title to all Products provided under this contract, free and clear of all claims, liens or encumbrances. Seller represents and warrants that the Products do not infringe or misappropriate the intellectual property or industrial property rights of any third party.

**15. Indemnification.** Seller shall defend, indemnify, and hold harmless DRC, its customers and related business entities ("Indemnitees"), from and against any and all claims, damages, judgments, costs, fees and expenses (including reasonable attorneys fees) awarded or assessed against Indemnitees, or incurred by Indemnitees, as a result of a third party claim against Indemnitees arising out of or related to Seller's breach of these Terms, third party claims of products liability, or third party claims that the Products infringe or misappropriate the intellectual property rights of such third party. In the event of a third party claim of infringement or misappropriation, Seller shall immediately provide substitute Products that avoid the claim of infringement/misappropriation, or secure a license from the party alleging infringement so as to allow DRC and its customers to purchase, use, and sell the Products that are the subject of such a claim.

**Insurance.** During the performance of all work under DRC's PO, Seller shall maintain the following insurance with limits not less than indicated for the respective items; should DRC so request, Seller shall supply certificates evidencing coverage of such insurance during the term of this contract.

(a) WORKER'S COMPENSATION, including Employer's Liability Insurance, complying with laws of the State in which the work is to be performed or elsewhere as may be required. Employer's Liability Insurance shall be provided with a limit not less than \$100,000.

(b) COMPREHENSIVE GENERAL LIABILITY INSURANCE, including Contractual Liability, Products-Completed Operations Liability, Bodily Injury and Property Damage, and coverage on all Seller's equipment (other than motor vehicles licensed for highway use) owned, hired or used in the performance of this contract, with limits not less than \$500,000 for each occurrence.

**16. Compliance with Laws.** Seller represents and warrants that the performance under this PO and the manufacture and sale of Products shall be in accordance with all applicable federal, state, and local laws, rules, regulations, and ordinances, including those relating to immigration, employment, wages, insurance, equal opportunity, environmental, health and safety.

**17. Confidentiality.** Seller shall treat as confidential, and shall not disclose to any third party or use for the benefit of any party other than DRC, any nonpublic information disclosed to Seller by DRC. Such information includes financial, technical, and customer information; product specifications and designs, models, and data. Upon DRC's request, Seller shall return all DRC confidential information.

**18. Intellectual Property.** Each party retains intellectual property rights in its methodologies, data, technology, inventions, circuit designs, mask works, software, designs, specifications, and other intellectual property created prior to the Effective Date of this contract. If Products embody Seller or third party intellectual property rights, Seller hereby grants DRC a perpetual, paid-up, royalty-free, worldwide, nonexclusive, transferable license to exercise all rights relating to such Products, including making, using, selling, copying, adapting, and distributing such Products. Subject to the foregoing, DRC shall own all intellectual property rights in Products made by Seller to the specifications of DRC, and Seller hereby assigns to DRC all right, title, and interest in and to all copyrights, patents, trade secrets, and data rights, in and to all such Products.

**19. Limitations of Liability for Damages.** IN NO EVENT SHALL DEXTER BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, OR FOR LOST PROFITS OR BUSINESS INTERRUPTION LOSSES, ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT.

**20. Cancellation.** DRC may cancel all or any part of a pending Purchase Order upon written notice to Seller. In the event of cancellation for any reason other than non-performance by Seller, DRC shall pay any costs actually incurred by Seller solely in reliance upon Purchase Orders placed by DRC through the date of notice. In no case shall the costs exceed the total amount of the applicable Purchase Order. Seller shall deliver the works in process, and any data, designs, specifications, and raw materials acquired by Seller for the benefit of DRC.

**21. Termination.** Either party may terminate this contract in the event of (a) a material breach that is not cured within ten (10) days written notice, (b) insolvency; (c) bankruptcy; (d) appointment of a receiver or trustee and not vacated within thirty (30) days from the date of such appointment; or (e) an assignment for the benefit of creditors. Upon cancellation or termination: (i) each party will be released from all obligations to the other arising after the date of expiration or termination, except for those which by their terms survive or continue after such termination or expiration, and (ii) Seller will, at its expense, promptly deliver to DRC all DRC confidential information, materials, tools, or other tools and property owned by DRC and in Seller's possession.

**22. Notices.** All required communications shall be in writing and addressed to the recipient party at its address on the PO. All communications will be deemed given when hand-delivered; or if mailed, by registered mail with verification of receipt, upon date of mailing; or if by electronic mail or facsimile, when received (with verification of transmission sent promptly to the receiving party along with a hard copy of the communication).

**23. Waiver.** No waiver by either party of any breach of any of the terms of this contract shall be construed as a waiver of any succeeding breach of the same or of any other term.

**24. Governing Law: Venue.** The contract shall be governed exclusively by the laws of the USA and the State of Michigan. The parties shall seek to resolve all disputes through good faith business discussions. Any litigation shall be brought in the U.S. District Court for the Eastern District of Michigan, Southern Division, or Circuit Court for the County of Washtenaw, Michigan, and the parties hereby waive any assertion of lack of personal jurisdiction, venue, or *forum non conveniens*.

**25. Amendments.** No amendment, modification or supplement to this contract shall be binding unless it is in writing, signed by an authorized representative of each party.

**Dexter Research Center, Inc.**

By: \_\_\_\_\_  
*Signature*

Name: \_\_\_\_\_  
*Printed*

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_  
*Signature*

Name: \_\_\_\_\_  
*Printed*

Title: \_\_\_\_\_

Date: \_\_\_\_\_