

TERMS AND CONDITIONS

The following are terms and conditions for all purchase orders issued by the David Packard Company, Inc. herein referred to as "Buyer". If you are unable to comply with these terms and conditions, please notify Buyers representative at once.

The term "goods" shall refer to any and all materials, parts, products, machines, tooling, test equipment, technical data and, other tangible items furnished or required to be provided by Seller under this Purchase Order. The term "services" shall refer to any and all technical assistance, repair, support, consultation, and other efforts provided or required to be furnished by Seller other than labor in connection with the production of goods.

David Packard Company, Inc. Purchase order(s) are only valid with a purchase order number attached. The purchase order number must appear on all invoices, packing lists, bills of lading and relative correspondence.

This Purchase Order shall be governed by the laws of the Commonwealth of Massachusetts, U.S.A except for its provisions regarding principles of conflicts of laws and except to the extent that federal communications law shall apply. Any court action arising under this order shall be venued in Worcester County Massachusetts, U.S.A, in either federal or state court as appropriate.

By accepting this Purchase Order, in addition to warranties provided by law, Seller warrants that the goods and services provided will be in full conformity with the Buyers specifications, drawings and data. Seller's goods and services will be free from defects in both materials and workmanship and such goods will be fit for the Buyers intended use. Goods shall be manufactured, sold, delivered and installed in compliance with the provisions of all applicable federal, state and local laws, ordinances, rules and regulations. Goods will not infringe on any valid patent, trade mark, trade name, or copyright. Any and all warranties made by the manufacturer or supplier of goods delivered by the seller are hereby assigned to Buyer and nothing contained herein shall exclude or affect the operation of any implied warranties otherwise arising in favor of Buyer. Seller will bear any and all cost of inspecting, testing and/or replacement of rejected goods and/or services. Warranties granted herein shall survive inspection, testing, acceptance, and payment shall be rendered to Buyer.

It is Sellers responsibility to comply with this Purchase Order and all referenced documents, and to clarify with the Buyer any and all inconsistencies, conflicts in any part of the Purchase Order or referenced documents. Seller will be solely responsible for any errors resulting from said conflicts or inconsistencies.

Seller shall be responsible for proper packaging, loading, and tie-down of goods to prevent damage during transportation. If no packing list is provided upon delivery, Buyers weight and/or count will be accepted as final and conclusive. No extra charges for cartage, boxing or storage will be allowed unless the same has been agreed upon in writing by Buyer. All goods must be delivered in compliance with the Buyers shipping instructions otherwise the Seller will pay the difference.

Seller agrees to indemnify, defend and hold Buyer harmless from and against all losses, damages, liability, actions, judgements, costs and expenses (including, but not limited to, reasonable attorneys' fees and other expenses of litigation), suffered, incurred, or asserted by or against Buyer by:

1. Reasons of Seller's breach of warranty
2. Reasons of Seller's breach of any term of this Purchase Order
3. Reasons of Personal injury, including death, or property damage sustained by a third party resulting from or arising out of an act or omission of Seller, or Seller's agents, employees, or contractors in fulfillment of this Purchase Order.

- **PAYMENT:** Vendor invoices will be paid Thirty days after receipt of invoice unless otherwise agreed upon. Invoices are to be dated no earlier than the receipt of shipment(s) or delivery or services. Any discounts will be calculated from the date of receipt of the invoice or receipt of the goods or services, whichever is most current. Invoices are to only be submitted for goods that have been shipped or services that have been provided as previously authorized by Buyer.
- **CHANGES:** No substitutions of goods, change of services, delivery dates, or price increases are permitted without notification and approval of Buyer. The Buyer reserves the right at any time to issue a written change order or amendment to the Purchase Order concerning delivery dates, price increase, or any other matter that may affect the Purchase Order.
- **INSPECTION:** Buyer reserves the right to subject all goods and/or services to inspection and test. Buyer may reject goods and services not in accordance with Buyers instructions, specifications, drawings, data, or Seller's warranty (expressed or implied) for untimely delivery. Buyer may return rejected goods relinquishing further obligation to goods at seller's expense. Payment for any goods or services shall not be deemed acceptable and in no event shall Buyer incur any liability for payment for rejected goods or services.
- **FORCE MAJEURE:** Buyer may delay delivery or acceptance occasioned by causes beyond Buyer's control such as fires, floods, strikes, accidents, or shortages, which prevent Seller from delivering or Buyer from receiving said goods and or services stated in Purchase Order.
- **TERMINATION:** Purchase Order may be terminated upon Buyer's convenience in whole or in part at any time by (written or electronic) notice to seller prior to shipment. Seller shall promptly comply with the directions specified by the Buyer upon receipt of such notice.
- **CONFIDENTIALITY:** Unless otherwise agreed to by Buyer in writing, seller shall not disclose to any party, confidential and or proprietary materials provided by Buyer to Seller in connection with Sellers performance of this Purchase Order. This includes but

is not limited to any drawings, masters, software, specifications, raw materials, components, data, business information or plans, customer lists or other customer information. Seller shall not make copies of confidential information unless specifically authorized by Buyer in writing. Seller shall at the completion of this Purchase Order, promptly return to Buyer any and all Confidential Information not consumed in the performance of this Purchase Order. Seller shall use such information for Seller's performance of this Purchase Order for Buyer solely. Seller shall not directly or indirectly use Confidential Information or information derived therefrom in performing services or providing goods for any other customer of Seller or any other person or entity unless otherwise directed by Buyer's written consent.

Unless superseded by a specific signed agreement between Buyer and Seller, this agreement shall include; the Purchase Order, these Terms and Conditions, and all attachments referred to in the Purchase Order or in the General Terms and Conditions, and it shall constitute the entire agreement of the parties with regard to the subject matter contained herein. All other prior or contemporaneous representations, warranties, covenants, or agreements between Seller and Buyer, or their representatives, with respect to the subject matter are hereby superseded. The term "Purchase Order" as used means the first and continuations of David Packard Company, Inc. completed Purchase Order form including any special provisions contained. This agreement may not be modified except by mutual written agreement of the parties.