

PURCHASE ORDER TERMS AND CONDITIONS

This Order is subject to the following terms and conditions and such other special terms and conditions, which may be appended hereto.

By accepting the order, or any part thereof, the Seller agrees to and accepts said terms and conditions.

1. Buyer will not be responsible for any goods delivered without purchase order.
2. Seller will send separate invoice for each purchase order number.
3. Shipment and Delivery :
 - 3.1 Goods must be shipped as per Buyer's Weekly Open PO/Forecast Report; otherwise any extra handling charge will be billed back to the Seller.
 - 3.2 Prospective Failure: Seller shall give Buyer notice of any prospective failure to ship goods on the delivery date specified by Buyer.
 - 3.3 Portion of Goods Available: If only a portion of goods is available for shipment to meet the Delivery Date, Seller shall promptly notify Buyer and ship the available goods unless directed by ACM to reschedule shipment. If Seller ships goods by a method other than as specified in this Order, Seller shall pay any resulting increase in the cost of freight incurred over that which would have been incurred had Seller complied with Buyer's shipping instruction.
 - 3.4 Untimely Shipment: If, due to Seller's failure to timely ship goods, the specified method of transportation would not permit Seller to meet the Delivery Date, the goods affected shall be shipped by air transportation or other expedient means acceptable to Buyer. Seller shall pay for any resulting increase in the cost of freight incurred over that which would have been incurred had Seller shipped goods in a timely fashion by the method of transportation specified by Buyer. In addition, any penalties imposed by Buyer's immediate end customer due to this untimely shipment will be billed accordingly to supplier.
 - 3.5 Early Delivery: If goods are delivered more than three (3) work days prior to the Delivery Date, Buyer may either return goods or delay processing the corresponding invoice until the Delivery Date.
 - 3.6 Over Shipment: If Seller makes any shipment that is in excess of the quantity specified in the order, Buyer may return excess goods.
 - 3.7 Cost and Expenses: Seller shall be responsible for all costs and expenses, including transportation charges, associated with return of over shipments and early shipments by Buyer to Seller.
 - 3.8 Protection of Goods: Seller shall preserve, package, handle and pack goods so as to protect goods from loss or damage, in conformance with good commercial practice, Buyer specifications, government regulations, and other applicable requirements. Regardless of when title and/or risk of loss passes from Seller to Buyer, Seller shall be responsible for any loss or damage due to its failure to properly preserve, package, handle, or pack goods. Buyer shall not be required to assert any claims for such loss or damage against the carrier involved.
 - 3.9 Packing List/Delivery Order: Each delivery of goods to Buyer shall include a packing list/delivery order that contains at least: (i) The order number; (ii) the Buyer part number; (iii) the quantity shipped; and (iv) the date of shipment. The information on the packing list/delivery order must agree with the information on the commercial invoice.
4. Changes:
 - 4.1 Rescheduling: Buyer may, without charge, reschedule the delivery date and quantity in Weekly Open PO/Forecast Report by given notice of seven (7) calendar days prior to delivery date.
 - 4.2 Forecasts: Any forecast provided by Buyer are only an accommodation to Seller, and shall not constitute a commitment of any type by Buyer.
 - 4.3 Change or Cancellation: Buyer may, without charge, change or cancel any portion of this Order including, without limitation, quantity required, provided Buyer gives Seller notice; (i) for customized goods (i.e. supplied exclusively in accordance with Buyer's design or specification) at least similar to Seller's production lead time prior to the Delivery Date and (ii) for standard goods (i.e. all goods other than customized) at least seven (7) calendar days prior to the Delivery Date.
 - 4.4 Liabilities: Other than as provided in Section 4.5, if Buyer changes or cancels any portion of this order after the time period specified in Section 4.3, Buyer shall be responsible for actual costs incurred by Seller as a direct result of such change or cancellation which limited to Open PO and such actual costs consist of; (i) seller's actual finished goods inventory within production lead time. (ii) actual unique raw materials inventory within materials' procurement lead time.
 - 4.5 Change of Design or Specifications: Buyer may, effective upon notice to Seller, change Buyer's designs or specifications at any time prior to shipment of corresponding goods. If any such change directly affects the prices or delivery schedules of goods, an equitable adjustment shall be made, provided that Seller makes and Buyer accepts a written claim for an adjustment prior to shipment of goods. If the parties are unable to agree upon the amount of the adjustment, Buyer may, without any liability to Seller, terminate this order as to all goods affected.
 - 4.6 No process or Design Change: Seller shall not, without the prior written consent of Buyer, make any process or design changes affecting goods.
5. Prices, if not specified, are not to exceed those of the last invoice. Seller warrants that such prices are not in excess of the lowest prices charged by Seller to other similarly situated customers for similar quantities of goods and quality.
6. Quality and Warranty:
 - 6.1 Material will be subject to inspection and if found defective, or not in accordance with specifications, will be returned freight collect.
 - 6.2 WARRANTIES: Seller warrants that all goods delivered or furnished by Seller hereunder, shall be (a) free from any defect in material or workmanship for the shorter of one year from the date the end user receives the Product or 24 months after the date of manufacture, (b) in conformity to and with the terms and conditions of this order and all specifications, RoHS compliance, drawings and samples approved hereunder by Buyer, (c) merchantable and (d) fit for the purpose for which the same are required and intended to be used by Buyer and its customers. Seller's express warranties contained in this order shall be in addition to any and all warranties otherwise implied by law and no such express warranty shall exclude any such implied warranty. Each of Seller's said express and implied warranties shall be cumulative and shall survive Buyer's acceptance, payment and use of the goods covered thereby.
7. Indemnification, Confidential Information Insurance:
 - 7.1 In the event any article, merchandise or other goods are sold and delivered hereunder which may be covered by any patent, copyright, trademark, tradename, logo, design patent or other protected right under law, Seller represents and verifies to Buyer that there is no infringement of any of the above rights as set forth herein. Seller further represents and warrants that the material supplied is not libelous or does not otherwise violate the rights of other persons or constitute a violation of any statute, law, ordinance or regulation of any kind of government, and Seller agrees to indemnify and save Buyer harmless from all losses, damages and expenses, including attorney's fees, which Buyer may suffer as a result of any claim or such violation or alleged violations.
 - 7.2 Seller agrees to indemnify, defend, and hold harmless Buyer, its officers, agents, and employees, from any and all claims by any person whomsoever for injury to persons or damage to property caused by or in any way arising out of the furnishing of goods or services hereunder except such claims as may result from the negligent act or omission of Buyer, its officers, agents or employees.
8. Governmental Compliance: Seller will at all times comply with all federal, state, local and foreign laws, rules and regulations applicable to its obligations under this order and, if applicable, its manufacture of goods. Seller shall furnish to Buyer any information required to enable Buyer to comply with such laws, rules and regulations in its use of the goods or reasonably requested by Buyer to confirm compliance with such laws, rules and regulations or with the provisions of this order.
9. No Assignment: Seller shall not delegate or assign its rights or obligations without Buyer's prior written consent. Any attempted delegation or assignment by Seller without such consent shall be void.
10. Publicity: Seller agrees not to release any advertising copy mentioning Buyer or quoting the opinion of any of Buyer's employees unless such copy is approved by Buyer before release.
11. GOVERNING LAW. By mutual consent of both parties, the applicable law relative to this agreement shall be the laws of Malaysia and claims hereunder shall be subject to the jurisdiction of Malaysia courts.