

STANDARD TERMS AND CONDITIONS OF PURCHASE

This Purchase Order constitutes the sole and entire agreement (hereinafter called the "Agreement") between **Imaxtech Electronics Sdn Bhd** (hereinafter called the "Buyer") and the supplier (hereinafter called the "Seller").

1. DEFINITIONS

In this Purchase Order the capitalized terms shall be defined as follows:

- **"Custom Items"** means any goods manufactured exclusively for the Buyer in accordance with specifications or custom required by the Buyer.
- **"Goods"** means goods as specified in the Purchase Order, including both Custom Items and Standard Items.
- **"Standard Items"** means those items which the Seller offers for sale to other customers or stocks in its inventory in the normal course of business.
- **"Services"** means services that the service provider is to perform as specified in the Purchase Order.
- **"Specifications"** means either a detailed exact statement of particular Goods prescribing the materials, dimensions and other details of the Goods including but not limited to colour, pattern, drawings, design, samples, standards and composition or description of the Goods or a detailed exact statement of particular Services.

2. TERMS AND CONDITIONS OF ORDER

- 2.1 This Purchase Order is an offer by Imaxtech Electronics Sdn Bhd to purchase from the Seller the Goods or Services upon the terms and conditions stated herein.
- 2.2 The Seller shall provide written, telegraph or facsimile notice of acceptance or rejection of the Purchase Order and the related delivery schedule(s) within three (3) business days after the receipt of the Purchase Order provided, however, that the Seller's commencement or performance shall be deemed an acceptance of the terms and conditions stated herein.
- 2.3 Any proposal by the Seller for additional or different terms or any attempt by the Seller to vary in any degree of the terms and conditions in this offer is hereby rejected.
- 2.4 The terms and conditions of this Purchase Order represent the complete contract of the Parties and no other terms or conditions or oral promise or commitment related to it shall bind Buyer or be effective unless committed to writing and signed by both Parties.

3. PRICING

- 3.1 Prices set forth in this Purchase Order or any exhibit(s) referenced thereon shall remain fixed for the duration of this Purchase Order except as provided herein.
- 3.2 The Seller warrants that the prices charged for Standard Items ordered do not exceed the Seller's lowest prices charged at the time of delivery to the Seller's other customers with similar quality and delivery requirements.
- 3.3 If the Seller decrease prices for Standard Items furnished hereunder to any other customers of the Seller for like quality or quantity, the price of all such unshipped Standard Items hereunder shall be adjusted to such lower price for the duration of this Agreement.

4. PRODUCT SPECIFICATIONS AND CHANGES

- 4.1 The Seller shall not modify, deviate from or make any changes whatsoever in Specifications without the Buyer's prior written consent.
- 4.2 The Buyer reserves the right at any time on written notice to Seller to change the Specifications, method of packing or shipment and/or the place of delivery. If any such change materially increases or decreases the cost or time of delivery of any item, the Seller and Buyer will negotiate and make equitable adjustment of the cost and/or delivery schedule, and the Buyer will memorialize such adjustment in a written change order.
- 4.3 The Seller shall compensate the Buyer for any loss, liability, damages, costs and expenses arising from or in connection with any change to the Goods or Services made or provided without prior written notice to and/or prior written consent of the Buyer.

5. QUALITY OF GOODS AND SERVICES

- 5.1 The Seller warrants to the Buyer that the Goods and Services to be provided shall:
 - 5.1.1 be free from any defect;
 - 5.1.2 conform with quantity, quality and description with the Purchase Order and any Specifications or standards stated or referred to in the Purchase Order and document attached thereto;
 - 5.1.3 be of first class materials and workmanship throughout and be executed with reasonable care and skill by properly qualified and experienced persons;
 - 5.1.4 be genuine or made of genuine components/materials;
 - 5.1.5 be equal in all respects to any Specifications or demonstrations provided or given by either Party;
 - 5.1.6 be capable of any standard or performance specified in the Purchase Order and document attached thereto;
 - 5.1.7 if the purpose for which they are required is indicated in the Purchase Order, either expressly or by implication, be fit for that purpose; and
 - 5.1.8 comply with any statutory rules or regulations that may be in force relating to the Goods and/or Services.The warranties above shall be valid for a period of 1 year or such longer period as the Seller and Buyer may agree in writing.
- 5.2 The Seller will keep the Buyer indemnified in respect of all loss, damage, injury, costs and expenses which result directly or indirectly from defective Goods, nonconformity, workmanship, design or Services supplied or provided by the Seller or any other defect or fault in the production of the Goods and performance of the Services and in addition the Seller will repair, replace or reinstate at the Buyer's option, any defective item or items free of charge.
- 5.3 The Seller agrees and consents to the Buyer assigning and/or transferring the benefit of the warranties in Clause 5.1 herein to any third parties including but not limited to any party which purchases the Goods or Services from the Buyer.

6. DELIVERY AND SHIPPING TIME IS OF THE ESSENCE IN THIS PURCHASE ORDER

Buyer may terminate this Purchase Order without penalty or liability if delivery is not made or services are not performed by the date(s) specified. No change in the scheduled delivery date is permitted without Buyer's written consent. Partial shipments are not authorized and Buyer reserves right to return and early (by more than five (5) business days) or excess deliveries to Seller at Seller's risk and expense. No acceptance or late items will waive Buyer's right with respect to such late delivery nor shall it be deemed a waiver of future compliance with the terms hereof. All items shall be adequately packed in a manner which follows good commercial practice and protect them against damage or deterioration. The Seller shall mark all containers with necessary lifting, handling and shipping information, Purchase Order number, date of shipment, and the name of the Buyer and Seller. Packing slips shall be included with each delivery indicating the line item number, description, quantity, Purchase Order number and the date of shipment. The Buyer shall instruct the Seller on the method of shipment. Seller shall use its best efforts to consolidate shipments where possible to reduce shipping costs.

7. INSPECTION, TESTING AND WARRANTY

- 7.1 Final inspection, test and acceptance of the Goods by the Buyer will be at the Buyer's premises/appointed third party from which this Purchase Order originates unless otherwise specified.
- 7.2 Seller warrants that the goods shall comply with the applicable Specifications and drawings that shall be agreed upon by both parties.
 - 7.2.1 Seller shall be obliged to ensure that the Goods shall be free from defects, materials, workmanship and manufacture,
 - 7.2.2 the Goods shall conform to the documentation and the application Specifications, drawings, samples or other descriptions set forth in our Purchase Orders,
 - 7.2.3 the Services will be performed in a professional manner,
 - 7.2.4 Goods shall be suitable for the purposes for which the Goods are intended, and
 - 7.2.5 all Goods are new and unused, unless otherwise specified and agreed.
- 7.3 Any Goods not accepted by the Buyer will be returned to the Seller at the Seller's risk and expense, for credit at the full price, but without prejudice to any other rights of the Buyer as herein contained or as conferred by law. No inspection or test shall constitute acceptance of the item or affect any liability of the Buyer under the contract.
- 7.4 The Buyer reserves the right at its option either to reject any Goods or Services in whole or in part (whether or not the same have been delivered to and accepted by the Buyer) or to cancel the Purchase Order or any part of the Purchase Order or to delay an acceptance of the whole or any part of it without any further payment or charge for storage or delay in any of the following circumstances:
 - 7.4.1 failure by the Seller to comply strictly with the description, Specifications and drawing relating to Goods to be supplied or Services to be carried out and/or failure to comply with any Malaysian or other standard specification where applicable;

- 7.4.2 If the Goods or Services are below the specified standard or fail to pass any inspection or test in accordance with these conditions; or
- 7.4.3 If the Seller otherwise fails to comply in all respect with any of its obligations under these conditions.

8. PERFORMANCE

- 8.1 Unless otherwise agreed in writing, any time or period given, delivery, dispatch, performance or completion shall be of the essence. The Seller shall immediately notify the Buyer of any apprehended delay in delivery, dispatch, completion or performance.
- 8.2 The Buyer reserves the right to reject the Goods or Services not delivered or performed on time, and/or to cancel the whole or any part of the Purchase Order of which such Goods or Services form part and/or to return any Goods already delivered which by virtue of such rejection or cancellation are no longer of use. Such rights of rejection, cancellation or return shall be available to the Buyer irrespective of the cause of delay without prejudice to the Buyer's rights to damages and any other remedies against the Seller for breach of contract and without any liability of whatever nature on the Buyer.

9. CHANGES

The Seller shall not make any changes whatsoever in the colour, specification, design or composition of the Goods or Services without the prior written consent of the Buyer.

10. INVOICES AND PAYMENT

- 10.1 Separate invoices shall be prepared for each delivery and shall only include items on this Purchase Order.
- 10.2 All invoices shall be in four (4) copies and shall include the Buyer's Purchase Order number, line item number, part number, description of the item(s), quantities delivered, unit and total price and extended totals.
- 10.3 Payment of such invoices shall not constitute acceptance. Invoices will not be processed for payment, and payment shall not be due until all items invoiced are received and the invoices submitted conform with the applicable order and document attached thereto.
- 10.4 The Buyer shall have the right to apply credits due to rejection of items or discrepancies on paid invoices against any outstanding invoices, provided that the Buyer sends to Seller written notice and explanation of the application of such credits.

11. INDEMNIFICATION

- 11.1 The Seller shall indemnify and keep the Buyer fully indemnified (except in respect of designs provided by the Buyer) against all claims of whatsoever nature (including those for royalties, damage or other losses) directly or indirectly arising from or consequential upon any infringement of any and all intellectual property rights including but not limited to patent right, trademark rights, and copyrights, and patterns, registered designs, design rights, articles or processed pursuant to the Purchase Order.
- 11.2 The Seller will keep the Buyer indemnified against any claim in respect of loss or damage to any moveable or immovable property of any nature or type whatever of the Buyer or any third party, and against any claim in respect of the death of or personal injury to any person whether in contract or tort, or otherwise arising under common law, statute, or otherwise as a result of breach of any statutory or common law duty, or of any act or omission on the part of the Seller, or any of its employees, assignees or agents, or as a result of the performance or non-performance of the Purchase Order or otherwise of however arising whenever such loss, damage, death or personal injury occurs (including but not limited to the Buyer's premises).

12. TERMINATION

- 12.1 The Buyer may terminate this Agreement in whole or in part, for cause, at no change to the Buyer's rights and no further liabilities or obligations to the Seller, upon the occurrence of any of the following events of default ("Events of Default"):
 - 12.1.1 the Seller fails to provide refunds for, or replace or correct defective items;
 - 12.1.2 the Seller fails to provide the Goods or Services conforming to the Specifications or Purchase Order; or
 - 12.1.3 the Seller fails to perform any other obligations hereunder.
- 12.2 If the Seller being an individual becomes bankrupt or insolvent or has a receiving order made against him or compounds with his creditors, or being a company is wound up or becomes insolvent or has a receiver or administrative receiver appointed or suffers the appointment or the presentation of a petition for the appointment of an administrator, the Buyer shall be at liberty (but not bound) at any time after that:
 - 12.2.1 to cancel all or any part of the order immediately by notice and to collect immediately all materials, goods, tools and articles of any description sent to the Seller for any purpose; or
 - 12.2.2 to give the Seller or the receiver, liquidator or the other person the option of carrying on with the Purchase Order subject to his providing a guarantee up to an amount to be agreed for the due and faithful execution of the Purchase Order.
- 12.3 Upon termination of this Purchase Order for cause, if requested by the Buyer, the Seller will transfer title and deliver to Buyer:
 - 12.3.1 any completed items requested in writing by the Buyer, and/or
 - 12.3.2 any partially completed items and all unique materials requested in writing by the Buyer. Prices for partially completed items and unique materials so delivered shall be negotiated. Such prices shall not exceed the Purchase Order price per item.
- 12.4 Upon receipt of notice of termination by Buyer, Seller shall stop work immediately on any terminated portion of the Purchase Order.

13. DEFERMENT AND RESCHEDULING

Buyer may defer shipments for Standard Items at any time without penalty. In addition, Buyer may defer a shipment of non-Standard items once per shipment, at any time, also without penalty. Finally, a third deferral of a given shipment of non-Standard items shall constitute of such shipment for Buyer's convenience.

14. COMPLIANCE WITH LAWS

In performance of its obligations hereunder, Seller shall comply with laws of Malaysia for all intent and purpose, unless stated otherwise. The Seller shall defend, indemnify and hold the Buyer, its directors, officers, employees and agents harmless from any loss, liability, damage or cost, including court costs or attorney's fees, resulting from the Seller's actual or alleged noncompliance.

15. MISCELLANEOUS

- 15.1 This contains the entire understanding and agreement between the Buyer and the Seller with respect to the subject matter hereof and cancels all prior agreements, dealings and negotiations. No waiver of any breach hereof shall be held to be a waiver of any other or subsequent breach. The failure of Buyer to insist on strict performance of any term of this Purchase Order or to exercise any rights hereunder shall not be construed as a waiver of Buyer's rights to require strict performance of any other terms or exercise any other rights hereunder.
- 15.2 The Seller may not assign any of its rights nor delegate any of its obligations under this Purchase Order of any portion thereof without the prior written consent of the Buyer.
- 15.3 This Purchase Order shall be governed by and construed in accordance with the laws of Malaysia as those laws are applied to contracts entered into and to be performed entirely within Malaysia, between Malaysian residents, without regard to principles of conflict of laws. The parties expressly disclaim the application to this Purchase Order of the United Nations Convention on Contracts for the International Sale of Goods.
- 15.4 Any dispute arising out of or in connection with this Purchase Order, including any question regarding its existence, validity, or termination, shall be referred to and finally resolved by arbitration in Malaysia in accordance with the Arbitration Rules of the Malaysian Act then in force, which rules are deemed to be incorporated by reference into this clause.
- 15.5 Any amount owed to one party under this Purchase Order (in the form of refund or otherwise) may be offset by any outstanding amounts due from such party.
- 15.6 The Buyer shall not be responsible for any failure to perform due to causes beyond its reasonable control including, without limitation, labour disputes, fires, embargoes, hostilities, acts of God, delay of customers or suppliers, domestic or foreign governmental acts or regulations, or cancellation by Buyer's customer(s) of the contract(s) for which this Purchase Order has been issued.
- 15.7 The unenforceability, invalidity or illegality of any provision shall not render any other provision unenforceable, invalid or illegal provided elimination of such provision shall not materially affect the intent of the Agreement.