



## Purchase Order Terms and Conditions

**1. AGREEMENT.** The terms and conditions set forth below with those appearing on the face of this purchase order or on any exhibits attached hereto constitute the complete and exclusive agreement (hereafter "Order") between ACUTRONIC USA Inc. ("Purchaser") and the supplier identified on the face of this Order ("Supplier"). The terms and conditions of this Order take precedence over any additional or different terms and conditions of the Supplier which may be contained in Supplier's quotation or acknowledgement to which objection is hereby made by Purchaser. No modification of this Order shall be binding upon either party unless in writing and signed by an authorized representative of each party.

**2. PRICES.** This Order shall not be filled at prices higher than those shown on this order, or higher than those last quoted or charged by the Supplier, unless such increased price shall have been authorized in writing by Purchaser. Such prices shall remain firm for the duration of this order and are exclusive of taxes, shipping and insurance. If charges for taxes, shipping and insurance are applicable, they shall be separately stated on Supplier's invoice. Supplier warrants that each price for goods ("Goods") or services ("Services") is no less favorable than that extended during the term of this order to any other customer for the same or like items in equal or lesser quantities on similar terms and conditions.

**3. CHANGES.** The quantities, prices, terms, conditions or other pertinent specifications of the Order shall not be changed except by Purchaser's written authorization. Where the supplies to be furnished are to be specifically manufactured in accordance with drawings and/or specifications, Purchaser may, at any time by written order make changes in (i) quantity, (ii) drawings, designs, or specifications, (iii) method of shipment or packing, and (iv) place of delivery. If any such change causes an increase or decrease in the cost of, or time required for performance of the work under this Order, an equitable adjustment shall be made in the contract price or delivery schedule or both. Supplier shall not suspend performance of this Order while Purchaser and Supplier are in the process of making such adjustment. Supplier shall submit its claim within seven days from the date of receipt of notification of change unless said period is extended in writing by Purchaser.

**4. SPECIFICATIONS.** If the blueprints and specifications are furnished by the Purchaser, this Order shall be based upon such blueprints and specifications. Approval of samples by the Purchaser shall not relieve the Supplier from strict and full compliance with such blueprints and specifications. Articles or goods not conforming to such blueprints and specifications may be rejected. Where the cost of property, which has become obsolete or excess as the result of any change, is included in Supplier's claim for adjustment, the Purchaser shall have the right to prescribe the disposition of such property. The foregoing rights of the Purchaser are not exclusive and shall not limit Purchaser's right to avail itself of any other remedy provided by this Order, law or equity.

**5. PRODUCT SPECIFICATIONS.** No substitutes will be accepted without Purchaser's specific written approval. For a reasonable time after delivery, Supplier's equipment, materials, and services performed are subject to Purchaser's inspection and approval. If specifications are not met: (a) material and/or equipment may be rejected and returned at Supplier's expense, including transportation charges both ways, and/or (b) Purchaser may require that the service be repeated pursuant to the stated specifications. Payment of invoice does not constitute acceptance of equipment, materials or services covered by this Order and is without prejudice to any and all claims of Purchaser against Supplier.

**6. PAYMENT NOT CONSTITUTING ACCEPTANCE.** Payment for any item on this Order shall not constitute approval or acceptance of such material by Purchaser, and Purchaser's right of inspection shall survive payment. Supplier shall repay Purchaser the purchase price of any material found to be defective, not to conform to specifications, drawings or samples or not shipped in accordance with Purchaser's delivery schedule and returned to Supplier. Rejected material shall be returned at the expense of Supplier upon rejection, and Supplier shall bear all risk of loss as to rejected material. Purchaser may elect to retain rejected material and remedy any defects or nonconformity to specifications, drawings or samples. Cost of affecting such remedy shall be negotiated between the parties, and the price to be paid by Purchaser shall be adjusted accordingly. The foregoing rights of the Purchaser are not exclusive and shall not limit Purchaser's right to avail itself of any other remedy provided by this Order, law or equity.

**7. INVOICE AND PAYMENT.** Unless agreed upon in writing, Supplier shall issue invoices only at time of shipment of Goods or completion of Services. Unless otherwise specified on the face of this Order, payment shall be Net 30 days from time of receipt of Goods at Purchaser's facility or upon Purchaser's confirmation of completion of services provided by Supplier and correct and



complete invoices are received.

8. **SET OFF.** Purchaser shall be entitled at all times to set off any amounts owing at any time from Supplier, under this order or otherwise, to Purchaser or any of Purchaser's affiliates against any amounts due by Purchaser in connection with this order.

9. **DELIVERY AND SHIPPING.** Quantities shipped must equal the quantity ordered unless otherwise specified by Purchaser. Each shipment of Goods by Supplier to Purchaser shall include a packing list which contains at least (i) the Order number, (ii) Purchaser's unique part number, (iii) the quantity, and (iv) the date of shipment. Each product of Goods supplied by the Supplier shall include unique identification which includes the part number or Purchaser's associated sales order number found on the Purchaser's purchase order. Delivery shall be strictly in accordance with the delivery schedule set out or referred to on this Order, or in written changes thereto signed by Purchaser. Purchaser may refuse to accept, or return at Supplier's risk and expense, any equipment made in excess of Purchaser's order or in advance of required delivery dates, or to defer payment on such deliveries until such dates. Supplier shall notify Purchaser immediately of any actual or potential labor dispute which is delaying or threatens to delay the timely performance of this order. Delivery for this purpose shall mean date of receipt at ACUTRONIC USA Inc.'s dock. Costs of premium freight required by the Purchaser on past due shipments shall be the responsibility of the Supplier.

10. **PACKING.** No charge will be allowed for packing, boxing or crating, unless agreed upon in writing at time of purchase. The goods shall be packed by Supplier to ensure safe and proper delivery of the goods to Purchaser in an undamaged condition. Supplier shall be responsible for any loss or damage.

11. **TITLE AND RISK OF LOSS.** Title and Risk of Loss: Unless otherwise specified on the face of this Order, shipping terms shall be FOB point of shipment ("FOB Ship Point"). Title and risk of loss will pass to Purchaser upon delivery of Goods to the carrier. If the face of this Order specifies Purchaser's location as FOB ("FOB Destination") point, Supplier will bear risk of loss or damage and title shall not pass to Purchaser until actual delivery of the Goods at Purchaser's location.

12. **TAXES.** All taxes arising out of the transactions shall be borne by Supplier except as otherwise described herein.

13. **WARRANTY.** The warranty period shall commence upon first commercial use of the goods supplied for a duration of 12 months, but in any case shall not extend beyond 18 months from delivery. During this period, Supplier warrants clear title to the goods, free of any lien or encumbrance; and that all goods shall be new, merchantable, of high quality and workmanship and free from defects; shall conform strictly and in all respects with the terms hereof and with the drawings, designs, specifications, descriptions and samples identified in this Order, and shall be fit for the purposes intended if the purpose is known or reasonably should be known to Supplier. These warranties shall run to Purchaser, its successors, assignees, customers, and users of the goods. Supplier agrees, at its own expense and whenever reasonably requested by Purchaser, to furnish and deliver to Purchaser satisfactory evidence showing that each of said drawings, designs, specifications, descriptions and samples have been fully and completely complied with and that the goods supplied hereunder fully and completely conform thereto. Supplier agrees, at its cost, to immediately replace, repair, grant credit for, or make good any nonconforming goods during the warranty period.

14. **CANCELLATION BY PURCHASER.** Purchaser reserves the right to cancel this Order, or any part thereof, at any time, even though the Supplier is not in default hereunder, by giving written notice to the Supplier. In the event of such cancellation, Purchaser shall pay for all goods and services delivered and completed. An equitable settlement shall be arrived at for cost incurred by Supplier for goods and materials in process not to exceed the aggregate committed quantity and/or price specified in this Order. Upon receipt of any notice of cancellation hereunder, Supplier shall, unless otherwise directed, immediately discontinue all work in progress and immediately cancel all orders or subcontracts given or made pursuant to this Order. Exercise by Purchaser of the rights of cancellation reserved in this Paragraph shall give rise to no liability on the part of the Purchaser except as specified in this Paragraph and shall not have the effect of waiving damages the Purchaser might otherwise be entitled to.

15. **DEFAULT.** In the event of any bankruptcy or insolvency proceedings involving Supplier, or in the event of the appointment of an assignee for the benefit of creditors or of a receiver, or if Supplier is insolvent or fails to perform any provision of this Order, or so fails to prosecute the work as to endanger performance of this Order and does not cure such failure within a period of five (5) days (or such longer period as Purchaser may authorize in writing) after receipt of notice from Purchaser specifying such failure, Purchaser may, by written notice to Supplier, without any liability whatsoever and without prejudice to any other rights or remedies which Purchaser may have under this Order or in law or equity, terminate, in whole or in part, further



performance by Supplier of this Order.

**16. INTELLECTUAL PROPERTY.** All drawings, specifications, data, memoranda, calculations, notes and other materials or copies thereof made available to Supplier by Purchaser shall remain the sole and exclusive property of Purchaser and will be returned at the completion of this order or when requested by Purchaser. Further, Purchaser shall acquire sole and exclusive ownership of all equipment, materials, and documents generated as a result of this order and/or through the use of Purchaser's information.

**17. INDEMNIFICATION.** Supplier agrees to protect, defend, hold harmless and indemnify Purchaser from and against any and all loss, damage, liability, cost and expense including, without limitation, reasonable attorneys fees which result from any alleged or claimed defect in goods purchased hereunder, whether latent or patent, including allegedly improper construction and design, or from the failure to such goods to comply with specifications, or with any express or implied warranties of Supplier or arising out of the alleged violation of any statute, ordinance, administrative order, rule or regulation connected with the manufacture or sale of such goods, including but not limited to the Federal Occupational Safety and Health Act of 1970, as amended. At Purchaser's request, Supplier shall obtain and maintain during the life of this agreement at its expense, product liability insurance, with a vendor's endorsement in such form and amount, and in such company, as may be approved by Purchaser in writing. Satisfactory evidence of such insurance shall be submitted to Purchaser upon request. For the purpose of this paragraph, "goods" shall be deemed to include any packaging supplied by Supplier.

**18. ASSIGNMENT.** This Order or any portion of this Order or any duty or right herein or any claim arising hereunder shall not be assigned by the Supplier without the prior written consent of the Purchaser. Nor may this Order be assigned by operation of law or a merger or judicial sale or otherwise, without the prior written consent of Purchaser. Any unauthorized assignment or attempted assignment by Supplier shall constitute a material breach of this agreement. This Order may be assigned by Purchaser.

**19. PRODUCT LIABILITY INSURANCE.** Except when otherwise so stipulated, Supplier shall obtain and maintain at its expense policy or policies or product liability insurance with a broad form vendor's endorsement, naming ACUTRONIC USA Inc., an additional insured in the amount of \$500,000 bodily injury and \$500,000 property damage, and in such company or companies, as shall be satisfactory to purchaser. All such policies shall provide that coverage there under shall not be terminated or changed without at least (10) ten days prior written notice to purchaser. Supplier shall furnish purchaser with certificates of insurance, and evidence of renewals. The purchase of such insurance or the furnishing of certificates shall not be in satisfaction of Supplier's liability hereunder in any way modify Supplier's indemnification of purchaser.

**20. PATENT INDEMNIFICATION.** Supplier represents that the Goods furnished hereunder and their use does not infringe any patent, trademark or copyright. Supplier agrees, at its own expense, to defend, indemnify and hold harmless Purchaser, and/or its customers in any and all patent, copyright, and/or trademark infringement suits brought because of the use of the equipment or materials furnished by the Supplier and agrees to procure rights for continued use of infringed Goods for Purchaser or to provide an alternate acceptable to Purchaser, except where such equipment or materials are furnished pursuant to the drawings or designs furnished by Purchaser.

**21. SUB-CONTRACTING.** Supplier shall not sub-contract all, or substantially all of the work of the work of this Order without written approval of Purchaser, with the exception of procurement of raw materials or standard commercial parts.

**22. FORCE MAJEURE.** Neither party shall be held responsible for any delay or failure in performance hereunder caused by acts of God, war, riots, fire, explosion, flood, strike, lock-out, injunction, governmental laws or regulations, or any other cause beyond the control of such party, preventing the manufacture, shipment, acceptance, or use of the goods; provided that, the party who is affected or threatened by such event immediately notifies the other party of the nature and estimated effect upon its performance hereunder. At Purchaser's option, the period specified for delivery of goods hereunder shall be extended by the period of delay occasioned by any such cause, and deliveries omitted shall be made during such extension, or the total quantity shall be reduced by the deliveries affected by the suspension of such performance, but the balance of the Order shall otherwise remain unaffected. Purchaser shall have the option to terminate this Order without liability to Supplier if the period of suspension exceeds or is expected to exceed thirty (30) days. In the event of allocation by Supplier as a result of the foregoing, Supplier shall allocate its total available supply of goods among Purchaser and Supplier's regular customers on a fair and equitable basis.

**23. COMPLIANCE WITH LAWS.** Supplier represents and warrants that no applicable national, state, or local laws or regulations have



been or will be violated in the manufacture, sale or delivery of goods sold or services provided. Supplier further agrees to comply, when applicable, with the provisions of the U.S. Fair Labor Standards Act of 1938, and all amendments thereof, and Subparagraphs 1 through 7 Section 202 of Executive Order 11246, and the applicable provisions of 41 C.F.R. Chapter 60, the texts of which are hereby incorporated by reference. If any of the goods hereunder are purchased for incorporation into products sold under a Government contract or subcontract, the terms required to be inserted by that contract or subcontract shall be deemed to apply to this order. All certification requirements specified in the contract or of which the Supplier has knowledge shall be complied with. Supplier agrees to furnish Purchaser a certificate of compliance with any such laws and certification requirements in such form as may be requested by Purchaser.

**24. EQUAL OPPORTUNITY.** Supplier agrees to comply with applicable State, Federal and local laws, and unless specifically exempt, to comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended and of the rules, regulations, and relevant orders of the Secretary of Labor, including the equal opportunity clause.

**25. OCCUPATIONAL SAFETY & HEALTH ACT.** All items supplied under the terms of this Order shall be certified by Supplier to be in compliance with requirements and standards of the Federal Occupational Safety & Health Act of 1970, as amended. In addition, where required, hazardous material data sheets will be supplied on all applicable products. Failure to Purchaser to contest a citation resulting from non-compliance of these items will not relieve the Supplier of liability under this warranty.

**26. CONFIDENTIALITY.** All information obtained by Supplier from Purchaser which is identified as confidential or proprietary by Purchaser or is acquired by Supplier under circumstances reasonably considered to impose an obligation of confidentiality shall (i) be received in confidence and (ii) shall remain the property of Purchaser, (iii) shall not be disclosed to a third party unless otherwise agreed in writing by Purchaser and (iv) shall be used by Supplier only to the extent necessary for the performance of this Order. For failure of Supplier to observe the provisions of this section, in addition to all other rights and remedies Purchaser may have, Purchaser shall have the right to terminate this order without any obligation by Purchaser to accept deliveries after the date of termination or make further payments except for completed articles delivered prior to termination.

**27. PURCHASER-OWNED PROPERTY.** Unless Purchaser and Supplier otherwise agree in writing, the following provisions shall apply to any tools, tooling, patterns, equipment, materials or other properties used in the manufacture of goods for Purchaser, or in the performance of this Order, that are either supplied to Supplier by Purchaser, or have been acquired by Supplier and specifically paid for by Purchaser. All such properties shall hereafter be referred to as Purchaser-owned.

1. Supplier shall have the right to use Purchaser-owned property without payment for usage as required in the performance of this Order or other work for Purchaser, but shall not use Purchaser-owned property in the performance of any other work without prior written approval of the Purchaser. Title to all Purchaser owned property shall at all times remain with Purchaser. Title to such property that is procured or manufactured by Supplier for Purchaser shall be fully vested in Purchaser upon payment for same by Purchaser.
2. Supplier shall take necessary measures to preserve Purchaser's title to Purchaser-owned property, free of all encumbrances. Purchaser retains the right, in addition to other rights provided by law, to enter Supplier's premises and remove Purchaser-owned property with or without a court order.
3. Supplier shall, on written request of Purchaser, properly pack and ship Purchaser-owned property to such destination as designated by Purchaser.
4. Supplier shall at its expense, perform all maintenance work, repairs, and replacements necessary with respect to applicable Purchaser-owned property so that such property remains suitable for the use intended.
5. The risk of loss or damage to all Purchaser-owned property shall be left with Supplier from the time that such property is delivered to Supplier until that property is removed from Supplier's place of business as directed by Purchaser in writing. Proof of adequate insurance coverage on Purchaser-owned property shall be provided to Purchaser by Supplier upon written request of Purchaser.
6. Purchaser shall not be liable for loss, damage, detention or delay resulting from causes beyond its control with respect to any Purchaser-owned property to be delivered to Supplier by Purchaser.





7. Supplier shall assume and shall protect, defend, hold harmless and indemnify Purchaser against any and all liability, including reasonable attorneys fees, for damaged property or injury to, or death of any persons arising, from or incidental to the presence of, or use of Purchaser-owned property, whether such damage, injury or death is caused by defects in the property, negligence in the use thereof, or otherwise.

8. Supplier shall, upon receipt of written request, provide Purchaser with a current listing of Purchaser-owned property in its or its subcontractor's possession, indicating complete descriptions, quantities, and property conditions.

**28. CHEMICAL SUBSTANCES.** Supplier warrants that each chemical substance sold hereunder shall, at the time of sale, transfer or delivery, be on the list of chemical substances compiled and published by the Administration of the Environmental Protection Agency pursuant to 15 U.S.C.A. Section 2607.

**29. GOVERNING LAW AND FORUM.** This Order shall be governed and construed in accordance with the laws of the State of Pennsylvania. All disputes arising out of this Order, including but not limited to any breach or enforcement of this Order and/or any terms thereof, shall be brought in a state or federal court having jurisdiction over the parties and/or dispute, which court shall be located in Allegheny County, Pennsylvania or in the U.S. District Court for the Western District of Pennsylvania.

**30. INSPECTION.** Purchaser shall not be required to inspect or test articles covered by this order. It shall be Supplier's responsibility to assure that such articles are in strict conformance with all requirements of the Order. Notwithstanding the above, all articles or work called for hereunder shall be subject to inspection and test by Purchaser and by personnel designated by Purchaser at all times and places including the period of manufacture and in any event, prior to acceptance. Unless otherwise specified herein, final inspection and acceptance shall be made after delivery to Purchaser. If any inspection or test is made on the premises of Supplier or Supplier's subcontractor, Supplier shall provide without additional charge, reasonable facilities and assistance for the safety and convenience of inspection personnel. Purchaser shall have the right to reject articles found upon inspection not to conform to the requirements of this order, and to require their correction or replacement at Purchaser's option, Purchaser's acceptance of any non-conforming article of work shall not constitute a waiver of requirements for any additional articles or work required to be delivered hereunder. Supplier shall provide and maintain an inspection system acceptable to Purchaser, and shall maintain complete inspection and test records, which shall be made available to Purchaser upon request. Right of Access: Should ACUTRONIC USA Inc., ACUTRONIC USA Inc.'s customer or regulatory authorities inspections be required by this Order, notification of the required inspections shall be made as prompt as possible, but no less than 48 hours in advance. The inspections may occur at any of the facilities involved with the order and will include all applicable records. Any non-conforming goods will, at Purchaser's election either be returned to Supplier, freight collect, FOB Purchaser's facility, or repaired by Supplier, at Supplier's sole cost and expense, at a location specified by Purchaser within 5 days of a request for repair by Purchaser. Supplier shall provide to Purchaser a Returned Goods Authorization (RGA) within 24 hours after notification by Purchaser of non-conforming goods. Supplier shall provide Purchaser with new replacement goods, FOB Purchaser's facility, within seven days after notification of the non conforming goods. Supplier shall assume all freight costs and any sales/use tax associated with the replacement goods. For purposes of this agreement, nonconforming be deemed delivered on time, unless replacement goods are delivered within the on time period applicable to the original Order.

**31. LIMITATION OF LIABILITY.** In no event will Purchaser be liable to Supplier for any incidental, indirect, punitive, exemplary, consequential or liquidated damages of any nature whatsoever.

**32. WAIVER.** The remedies herein reserved to Purchaser shall be cumulative and additional to pay other or further remedies provided in law or equity and a waiver by Purchaser of a breach of any provision of this Order shall not constitute a waiver of any other breach, of such provision.

**33. REGULATORY REQUIREMENTS.** Purchaser is committed to complying with all applicable laws, regulations and contractual requirements. The purchaser must expect no less from our suppliers. Suppliers shall comply with the following regulations:

1. DFARS 252-225-7014, Alt. 1, Preference for Domestic Specialty Metals. The supplier must supply a Certificate of Analysis with the shipment as confirmation the DFAR requirement is followed.
2. Securities and Exchange Commission (SEC), Conflict Minerals Requirements
3. Counterfeit Parts Policy



4. Foreign Object Damage Prevention Policy
5. Department of Energy-Export Control Information/Official Use Only

The supplier must flow down the requirements to all lower-tier subcontractors/contractors/suppliers regardless of the size or value of their contract.

IF ANY PART OF THE TERMS AND CONDITIONS STATED HEREIN ARE HELD VOID OR UNENFORCEABLE, SUCH PART WILL BE TREATED AS SEVERABLE, LEAVING VALID THE REMAINDER OF THE TERMS AND CONDITIONS NOTWITHSTANDING THE PART OR PARTS FOUND VOID OR UNENFORCEABLE.