

Behlman Electronics, Inc. Terms and Conditions

1. ACCEPTANCE OF PURCHASE ORDER

a. Acceptance: Acceptance of purchase orders by Behlman Electronics, Inc. (herein called "the Seller") does not constitute acceptance of any terms and conditions contrary to those contained herein, unless such acceptance is acknowledged in writing by the Seller. All purchase orders at minimum should specify a purchase order number, bill to and ship to addresses, method of shipment, a contact name, and phone number

b. Acceptance of Buyer Furnished Documents and Hardware: All specifications, drawings, artwork, etc., delivered to the Seller pursuant to this order shall be complete and of sufficient detail and quality to allow design and/or production. The Seller shall not be held responsible for Buyer supplied specifications, drawings, artwork, etc., which do not meet design and/or performance specifications. The Seller reserves the right to inspect all such documents and determine whether or not they comply with this provision.

c. Change Order Instructions: Prices quoted are based on the assumption that the Seller is free to design and/or manufacture the order in the most efficient and economical manner possible. Order instructions, such as engineering changes, hold orders, and changes in delivery schedule, which increase the Seller's cost, may require price increases and/or additional charges. Any special conditions require written acceptance by the Seller. Seller will notify Buyer, in writing, of any such price increases and/or additional charges.

2. SHIPMENTS

a. Shipments: Shipments, deliveries, payment terms, and performance of work shall at all times be subject to the approval of the Seller. The Seller may, at any time, decline to make a shipment or delivery or perform any work except upon receipt of payment or security or upon terms and conditions satisfactory to the Seller. Delivery dates are best estimates only. Delivery delay or default on any installment shall not relieve Buyer of its obligation to pay for remaining deliveries. Claims for shortages must be made within 30 days after delivery.

b. Method of Shipping and Shipping Costs: Unless otherwise specified by the Buyer, the Seller reserves the right to determine the method of shipment. All shipping costs shall be the responsibility of the Buyer. All shipments shall be FOB Seller's manufacturing plant in Hauppauge, NY and shall be made at Buyer's risk. Insurance, if requested by the Buyer, shall be provided at the Buyer's cost.

c. Time frame of shipping: Unless otherwise agreed upon and confirmed in writing, items scheduled for shipment are not subject to revision, reschedule or termination within 30 days prior to shipment. Custom products are not subject to reschedule or termination.

3. PRICES

a. Prices: All prices quoted by the Seller are net prices. Prices do not include applicable taxes. Buyer shall pay taxes on items sold. List prices are subject to change without notice. Seller's payment terms are specified on quotation.

4. SPECIAL ORDERS

a. Special Orders: Non-standard or reconfigured items are not cancelable and non-returnable.

5. RETURNS

a. Returns: All goods shall be inspected by the Buyer when received and every claim on account of defective material, workmanship, or shortages, or for any other cause, shall be deemed waived by the Buyer, unless made in writing and received by the Seller within thirty (30) days from the date of receipt of such goods to which such claim relates. Seller will not accept returned merchandise without a Return Material Authorization (RMA) issued by our customer service department. All returns must be properly packaged and properly boxed to prevent damage. Freight damage, signs of usage, missing parts, etc., will be adjusted on the amount of credit to be issued. Returns are subject to a minimum of 25% restocking charge and the Buyer is liable for all freight charges. Buyer agrees to pay to Seller, within thirty days thereof, the restocking charge. All merchandise must be returned within thirty (30) days of the date of the RMA to receive credit.

b. Credits: Seller does not issue refund checks for material returned for credit. Credit will be applied to future orders only.

6. RESCHEDULE/CANCELLATION

a. All orders placed with Seller are subject to cancellation charges. No cancellation for default shall be effective unless Seller shall have failed to correct such alleged default within 45 days after receipt of written notice from the Buyer.

7. LIMITED WARRANTY

a. Warranty: Seller warrants to the original buyer, for a period of one (1) year from the shipment from Seller, each item to be free from defects in material and workmanship. Seller's obligation and the Buyer's sole remedy for any breach or violation of this agreement is limited to adjustments, repair or replacements for parts which have been promptly reported by the Buyer as having been in its opinion, defective and so found by Seller upon inspection. All replacement parts will become the property of the Seller on an exchange basis. This warranty will not apply if such adjustment repair or parts replacement is required because accident, neglect, misuse, failure of environmental controls, transportation damage or causes other than normal use. Batteries are warranted for 30 days from date of shipment from Seller.

b. If during the warranty period a defect should impair the performance of the unit, Seller agrees, at its option, to repair or replace the unit or its defective components F.O.B. Seller at 80 Cabot Court, Hauppauge NY 11788 or at another Seller service facility at Seller's option. To obtain service under this warranty, the original Buyer shall notify Seller at the above address or by telephone at 631-435-0410 and provide information about the defect or impairment of performance. Seller will then supply the Buyer a Return Material Authorization (RMA) number. This number must be attached to the equipment sent back for warranty repair. Equipment must be shipped back to Seller prepaid. No collect shipments will be accepted.

c. Seller shall be excused from supplying warranty service if the unit's case has been open or if the unit has been subject to unauthorized repair. All service outside the scope of this warranty shall be paid for by the Buyer at Seller's rates in effect at the time of the repair. Seller will not perform any repairs

outside of the warranty without written authorization by the Buyer. If the repair is a warranty repair, Seller will ship the unit back to the Buyer, by a method determined solely by Seller, prepaid. If the Buyer requests, any other means of transportation it shall be at the Buyer's expense.

d. The use of the equipment shall be under the Seller's exclusive management and control. The Buyer will be responsible for assuring the proper installation, use, management and supervision of the equipment. Seller will not be liable for personal injury or property damage.

e. The forgoing warranties are in lieu of all other warranties, expressed or implied including without limitation warranties of merchantability and fitness for purpose. In no event shall Seller be liable for loss of profits, loss of use, or any indirect, consequential or incidental damages. Buyer agrees that Seller will not be liable for any damages caused by the Buyer's failure to fulfill any of the Buyer's responsibilities set forth herein.

8. OTHER TERMS

a. Venue: This contract shall be governed and construed in accordance with the laws of the State of New York.

b. Rights: In the event either party shall on any occasion fail to perform any term of this Contract and the other party refrains from or fails to enforce that term, the failure to enforce on that occasion shall not prevent or waive the right to enforcement on any other occasion.

c. Change in Schedule, Engineering, change orders or other special requirements, additional terms may apply.

d. Litigation: In the event of any litigation, including appellate proceedings, arising out of any breach of this Contract, the prevailing party shall be entitled to recover reasonable attorney's fees and court costs, as well as interest at the rate of 1.5% per month on any of the unpaid balance.

e. Assign ability: This contract may not be assigned without the express written consent of the party affected and shall be binding on the heirs, successors and, where applicable, the assigns. Seller reserves the right to assign, upon written notice to Buyer, all or any part of its rights and/or obligations hereunder to any Seller subsidiary or an authorized distributor without Buyer's prior consent.

f. Acts of Nature: Notwithstanding any other provisions of this Contract Seller shall not be liable for its failure to perform any of its obligations hereunder during any period in which such performance is delayed by fire, flood, war, embargo, strike, hurricane, tornado, earthquake, riot, labor disputes, shortage of materials or supplies, transportation delay, intervention of any governmental authority or any other unforeseen circumstance.

g. Indemnification: Buyer agrees to indemnify, defend, and hold Seller harmless from liability of damage resulting from any claim of patent infringement brought against Seller based on artwork and/or schematic(s) supplied by Buyer or based on PCBs requested by or supplied Buyer. Buyer shall defend such action as its expense and will pay all costs and damages awarded in any such action.

h. Entire Agreement: This writing is intended by the parties to be final written expression of their agreement with respect to the terms included herein, and no oral or extrinsic evidence may be admitted

to modify or change same except in writing, sign by both parties herein. This agreement supersedes all prior proposals or offers, oral or written, and all other communications between the parties relating to the subject matter of this Contract.

i. Use Restrictions: Seller's products are not authorized for use in life support devices or systems or other applications posing a significant risk of personal injury. Buyer hereby represents and warrants that any and all Seller's products purchased hereunder will not be used in such unauthorized applications.

j. Confidential Information: All drawings, diagrams, specifications and other materials furnished by Seller and identified as confidential relating to the use and service of articles furnished hereunder and the information therein, are proprietary to Seller. Buyer may not reproduce or distribute such materials except to Buyer's employees, who may use the articles as part of their duties. All such materials relating to the articles supplied directly by Seller, except information that may be established as public domain or disclosed pursuant to judicial or government action, shall be received in confidence, and Buyer shall exercise reasonable care to hold such information in confidence.

k. Government Contract Conditions: If Buyer's purchase order contains a U.S. Government contract number and orders products to be used in the performance of said contract, those clauses of applicable U.S. Government procurement regulations, mandated by Federal Statute to be included in U.S. Government subcontracts, shall be incorporated herein by this reference.

l. Limitation of Liability: No action shall be brought for any breach of this order or contract more than one year after the accrual of such cause of action.