

TERMS AND CONDITIONS

GENERAL This purchase order contains all of the terms of the purchase and sale between Microphase Corporation ("Buyer") and the seller and supersedes and revokes all prior correspondence, offers, representations, and negotiations between them. This order becomes a binding contract when accepted by acknowledgement of commencement of performance, but this shall not be deemed to preclude acceptance hereof in any other lawful manner. The terms and conditions hereof are intended as a final, complete and exclusive statement of the agreement between the parties, and no change in modification of or revision of this purchase order shall be valid unless in writing and signed by Buyer.

PACKAGING All articles are to be packed in suitable containers for protection in shipment and storage so as to exclude the introduction of foreign material into any mechanism or assembly in which the presence of such foreign matter would require cleaning or disassembly prior to use. Any highly polished, highly finished or precision parts are to be properly preserved and packed in containers, which will afford protection against atmospheric deterioration. Each container must be consecutively numbered and marked to show the order number and must be included on the bill of lading. No charge will be allowed for handling, packaging, storage, transportation, insurance in transit or any other service unless expressly stated herein. Items should be packaged to secure lowest transportation cost consistent with the provisions hereof. The Seller will mark containers or packages with the necessary lifting, loading and shipping information.

DELIVERY TIME IS OF THE ESSENCE IN THIS CONTRACT. If delivery in accordance with this purchase order is not made within the time specified herein, the Buyer may in addition to any other remedy provide herein or by law, cancel this order or such part of it as has not been completed and delivered by the Seller, without liability therefore to the Seller and the Buyer may procure such undelivered items from any other source of its own choosing and charge the Seller (or set off in whole or in part against any sums payable to the Seller under this order or otherwise) the amount by which all costs and expenses of such procurement, when added to any sums paid or payable hereunder for delivered items, exceed the total price; provided that the Seller shall not be responsible for delays, and defaults in deliveries, nor the Buyer for failure to receive, if occasioned by unforeseeable causes beyond the control and without the fault or negligence of the Seller, or the Buyer, as the case may be, including acts of God or the public enemy, fires, flood, labor strikes, freight embargoes or unusually severe weather. Undue delay by Seller in making shipment will enable Buyer to require Seller to expedite by faster freight and pay the difference in the higher rate for shipment. Unless freight or other changes are itemized any discount will be taken out of full amount of invoice. All shipments to be made in one day by one route must be consolidated. Items sold F.O.B. shipping point must be forwarded with all shipping charges prepaid and shipped cheapest way unless specified by Buyer. Delivery must be in the exact quantity ordered, except that this contract shall be severable and the items delivered in lots at the option of the Buyer. The Seller will have full responsibility for risk of loss until delivery conforming to contract on date, and at location specified and for damages arising from loss or default, except as otherwise expressly provided herein.

WARRANTIES The Seller expressly warrants that all items covered by this purchase order will conform to the specifications, drawings, samples and other description furnished or adopted by the Buyer and will be fit and sufficient for the purpose intended, merchantable, new, clean, in good repair, of first class material and workmanship and free from defect. The shipment of material and/or parts called for by this purchase order shall constitute a certification on the part of Seller that he holds available for review by Buyer documentary evidence in the form of physical and chemical reports with respect to related materials and/or processes and indicating conformance to applicable specifications. The Seller further warrants that the prices specified in this purchase order do not and will not at the date of delivery of each items specified herein exceed the Seller's price to other customers for like items and quantities, whether such customers be other industrial customers or the Government.

ACCEPTANCE Payment for items on this purchase order shall not constitute an acceptance thereof or waiver of apparent defects and shall be without prejudice, and Buyer shall have the right to inspect for defects and nonconformity at any time within ninety (90) days after taking physical possession; Buyer shall not be deemed to have waived such right or any defect or nonconformity, or to have accepted any item, or waived his right to reject or revoke acceptance, or cancel or repudiate the contract, until expiration of such period.

FAIR LABOR STANDARDS ACT Seller warrants that the items specified in this order will be produced in full and strict compliance with the requirements of the Fair Labor Standards Act of 1938 and any other State or Federal Labor Laws

which may apply to the production of such items. In the event that the items delivered under this order are produced in violation of such law or laws, Buyer shall not be liable for the purchase price thereof and such items may be returned or held for the account of Seller and any sums paid by Buyer on account of such purchase price shall be refunded by Seller and this order shall be cancelled and terminated forthwith without notice and without any liability whatsoever upon Buyer, the Seller remaining liable for damages for breach of this contract.

CANCELLATION In the event of any proceedings by or against either party hereto, voluntary or involuntary in bankruptcy or insolvency, or for the appointment of a receiver or trustee or trust mortgagee assignee for the benefit of creditors, of all or a substantial part of the property of either party, or in the event of breach of the terms hereof, including the warranty of the Seller, the other party shall be entitled to cancel forthwith the contract resulting from the acceptance of this purchase order, and shall retain all right to damages for breach of this contract.

TAXES The Seller will bill as separate items, when applicable, federal sales, manufacturer's and retailer's excise and state or municipal sales and use taxes. Seller assumes responsibility for all other taxes of every kind and nature imposed upon or in connection with this transaction.

PATENTS Notwithstanding any furnishing of specifications, drawings, samples and other descriptions by the Buyer, the Seller warrants that the material described herein and the sale or use thereof by Buyer or any transferee will not infringe any U.S. or foreign Letters Patent. The Seller agrees to defend, protect and save harmless the Buyer, its successors and assigns, customers and users of its products, against all suits at law or in equity and from all damages, claims, demands and costs for actual or alleged infringements of any Letters Patent by reason of the sale or use of the items hereby ordered.

TERMINATION The termination clause set forth in Section 8-706 of the Armed Services Procurement Regulation as in effect on the date of this order is hereby incorporated by reference herein and made a part hereof, except that the term "the Government" and its immediately preceding the words "and the", "or the", or "by the", whenever appearing in said clause shall be deleted. The provisions of this clause shall not limit or affect the rights or remedies of Buyer stated in other clauses of this order or provided by law in the event of default or breach by Seller.

TOOLS AND EQUIPMENT If the Buyer makes any payment or allowance to the Seller for tools, jigs, fixtures, molds, dyes, production or testing equipment to be used by the Seller in the fulfillment of this order, all of the same shall be the property of the Buyer, to be used solely for the purpose of the Buyer's order and shall be delivered to the Buyer or its nominee upon demand when no longer required for the Seller's performance, under the Buyer's orders in good condition, reasonable wear only accepted. Seller agrees to replace, at its expense, all such items not so returned. Seller shall make no charge for any storage, maintenance or retention of such property of Buyer and shall bear all risk of loss for all Buyers' property and Seller's possession. If Buyer furnishes any material for fabrication hereunder, Seller agrees (1) not to substitute any material in such fabrication without Buyer's written consent. (2) that title to such material shall not be affected by incorporation in or attachment to any other property. (3) to state and warrant on its invoice for final parts: "all material furnished by Buyer on this order (except that which became normal industrial waste or was replaced at Seller's expense) has been returned in the form of parts or held as unused material for Microphase disposition."

DISCLOSURE All unpatented ideas, information, design, devices, prints, drawings, and technical information concerning Seller's products, methods or manufacturing processes which Seller discloses or furnishes to Buyer in connection with this order which are not specified herein shall, except only to the extent as may be otherwise specifically agreed in writing. By Buyer and Seller be deemed to have been disclosed or furnished as part of the consideration for this order and Seller agrees not to assert any claims (except claims for patent infringement) by reason of the use, duplication or disclosure thereof by Buyer and/or its successors, assigns or customers. Buyer, its successors and assigns may be subject all items ordered hereby to further manufacture, combined them with other articles or put them to any use whatsoever, and no claim for royalties and additional compensation made be made by Seller by reason of such manufacture, combination, sale or use.

TECHNICAL INFORMATION During the performance of this order and for a period of time of three years at the completion thereof Seller will make no use of any technical information furnished by the Buyer in connection with this order whether in the form of drawings, specifications, data, or otherwise without the

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Buyer's prior written consent except the performance of this order and except for the extent that Seller is able to first establish to the Buyer's satisfaction that (a) such technical information was actually known to the Seller prior to its receipt in connection with this order or was to have become known to Seller after such receipt or (b) that such technical information is or has become available to the general public other than as consequence of the breach of this provision.

CONDITIONS

ASSIGNMENT No part of this contract or any right hereunder may be assigned or subject or manufacture or performance delegated without Buyer's consent.

Assigned accounts shall be subject to set-off, recoupment or other claim of Buyer against Seller.

INDEMNITY Seller shall indemnify Buyer against all loss on account of claims of injury to persons (including death) or damage to property which may result in any way from any act or omission of Seller, or its agents, employees, or subcontractors. Seller shall also maintain such Public Liability, Property Damage, Employer's Liability and Compensation insurance and Motor Vehicle Liability (Personal Injury and Property Damage) as will protect Seller (or its subcontractors) and Buyer from said risks and from any claims under any applicable Workman's Compensation or Occupational Disease statutes.

CHANGES Buyer shall have the right by written order to suspend work, or to make changes from time to time in the services to be rendered or the materials to be furnished by Seller hereunder. If such suspension or changes cause an increase or decrease in the cost of performance of this order or in the time required for its performance, an equitable adjustment shall be negotiated promptly and the order shall be modified in writing accordingly. Any claim by Seller for adjustment under this clause must be asserted in writing within thirty days from the date of the receipt by Seller of notification of the change or suspension, and shall be followed as soon as practicable with specification of the amount claimed and supporting cost figures.

PRODUCT SAFETY AND CONFORMITY – Suppliers are expected to develop, implement, and maintain effective policies and training programs to ensure their employees are aware of their relevant contribution to the quality, safety and conformity of their products and/or services.

ETHICAL BUSINESS PRINCIPLES - Supplier acknowledges and agrees that our Buyer requires that Supplier maintain a high standard of ethical conduct in all its dealings with the Buyer. Microphase policy prohibits all employees from accepting gratuities, gifts, entertainment or other favors, as well as from engaging in any activities which create the perception of a conflict of interest, from any current or prospective Supplier. Supplier is encouraged to implement their own written code of conduct and to flow down their principles to the entities that furnish them with goods and services. Microphase Corporation expects its Supplier to maintain effective programs to encourage their employees to make ethical, decisions in their business dealings.

GOVERNMENT CONTRACT PROVISIONS

1. **Inspection.** Materials to be used in the performance of Government contracts may be inspected and tested at all times and places either before, during or after manufacture by Buyer or by the Government agency concerned, at Buyer's discretion. If inspection and tests are made on premises of Seller or Seller's subcontractor, Seller shall furnish without additional charge all reasonable facilities and assistance for the safe and convenient inspection and test required by the inspectors in the performance of their duty.

2. **Examination of Record.** The Buyer and the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under this order, have access to and the right to examine any directly pertinent books, documents, papers, and record of the Seller involving transactions related to this order.

3. Equal Opportunity.

1. In the event this Purchase Order exceeds \$10,000, the Seller agrees that during the performance thereof he will observe the following:

(a) The Seller will not discriminate against any employee applicant for employment because of race, color, religion, sex, or national origin. The Seller will take affirmative action to insure that applicants are employed, and that the employees are treated during employment, without regard to their race, color,

religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Seller agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(b) The Seller will, in all solicitations or advertisements for employees placed by or on behalf of the Seller, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(c) The Seller will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency Contracting officer, advising the labor union or workers' representative of the Seller's commitments under this Equal Opportunity Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Seller will comply with provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Seller will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and by the rules regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Seller's noncompliance with the Equal Opportunity Clause of this Purchase Order or with any of such rules, regulations, or orders this Purchase Order may be cancelled, terminated or suspended in whole or in part and the Seller may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, or by the rule, regulation, or order of the e Secretary of Labor or as otherwise provided by law.

(g) The Seller will include the provisions of Paragraph (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, so that such provisions will be binding upon each subcontractor or vendor. The Seller will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: provided, however, that in the event the Seller becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Seller may request the United States to enter into such litigation to protect the interests of the United States.

II. AFFIRMATIVE ACTION COMPLIANCE PROGRAMS

It is understood and agreed between the parties hereto, that during the performance of this Purchase Order, Seller will develop a written affirmative action compliance program in accordance with the requirement of ASPR 12-807: provided that this order exceeds \$50,000 and the Seller has fifty or more employees. Wherever the word "Contractor" is used in such paragraph, it shall mean "Seller".

III. Incorporated herein by this reference are (a) Subpart A. Section 741.3 of the Rehabilitation Act of 1973 as amended in 1974, (b) Pub. L. 92-540; 86 Stat. 1097 (Vietnam Era Veterans Readjustment Assistance Act of 1972) and 41 CFR 50-250.2, and (c) any Rules and Regulations issued pursuant thereto.

4. **Compliance with Laws and Regulations.** Seller agrees at all times to comply with the applicable Federal, State and local laws, rules and regulations. The clauses of the ASPR hereinafter set forth are each incorporated herein by this reference, it being understood that in all such clauses the term "contractor" shall mean Seller, the term "contract" shall mean this order, and except for those clauses cited under Section 9, the terms "Government", "Contracting Officer" and equivalent phrases shall mean Buyer; provided, however, that in clauses 7-104.36(a), 7-104.14(a), 7-104.20(a), 7-104.3, and 7-104.12 the term "Government" means the United States Government only. The term "Comptroller General of the United States," where it appears in 7-104.15, means Comptroller General of the United States only, and the term "Contracting Officer" where it appears in 7-104.41, shall mean the Contracting Officer.

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5. Work Hour Act of 1962 and Buy-American Acts. Seller agrees that in the production of the materials furnished in this order, it will comply with the provisions when applicable of the Walsh-Healy Public Contracts Act (Jan. 1958, 41 USC 35-45) and the regulations, determinations and exemptions of the Secretary of Labor thereunder, the Work Hours Act of 1962 (PL. 87-581, 76 STAT. 357-360) and the Buy-American Act (Jul. 1960, 41 USC 10 a-d).

6. Renegotiation, (a) This contract is subject to the Renegotiation Act of 1951 (PL. 9, 82nd Cong. 65 Stat. 7) as amended (PL. 764 83rd Cong. 68 Stat. 1116; PL. 216 84th Cong., 69 Stat. 447), and to any subsequent act of Congress providing for the renegotiation obligation with respect to this contract or any subcontract hereunder which is not imposed by an act of congress heretofore or hereafter enacted. Subject to the foregoing this contract shall be deemed to contain all the provisions required by section 104 of the Renegotiation Act of 1951, and by any other such act, without subsequent contract amendment specifically incorporating such provisions, (b) The Seller agrees to insert the provisions of this clause including this paragraph (b), in all subcontracts, as that term is defined in section 103g of the Renegotiation Act of 1951 in any subsequent act of Congress providing for the renegotiation of contracts.