

HOLOGRAPHIX_{LLC}

Supplier Terms and Conditions

1. **ACCEPTANCE OF PURCHASE ORDER:** "Seller" is the supplier named on the face of this purchase order. "Buyer" is Holographix LLC. These terms and conditions, the order they accompany, and all documents named in that order (collectively, the Purchase Order), comprise the parties' complete contract for the sale of the items identified in the order (the Goods). The contract is effective on the earlier of: Buyer's receipt of Seller's notice of acceptance or acknowledgement, or Seller's commencement of performance. If any terms on the face of Buyer's order differ from or add to these printed terms, the order face terms shall take precedence over these printed terms and conditions. Seller may only accept this order by accepting the terms and conditions in the Purchase Order. If this Purchase Order has been issued by Buyer in response to an offer, and if any of the terms herein are additional to or different from any terms of such offer, then Buyer's acceptance of such offer, is expressly conditioned on (a) Seller's assent to such additional and different terms herein and (b) Seller's acknowledgement that this Purchase Order states the parties' entire agreement.
2. **PRICE:** Notwithstanding, that this Order represents an initial offer. No additional amounts shall be chargeable to Buyer because of taxes or excises, presently or hereafter levied on Seller. If Seller's quoted prices for the Goods covered by this Order are reduced (whether in the form of a price reduction, rebate, allowances, or additional discounts) at time of any shipment, Seller agrees that the price to Buyer for such goods will be reduced accordingly and that the Buyer will be billed at such reduced prices.
3. **SPECIFICATIONS:** Any manufacturing or other specifications referred to in this Order are hereby made a part hereof as if fully set forth herein. All goods ordered to the Buyer's specifications will comply with such specifications as well as all applicable government regulations current as of the date of this Order. If a drawing or specification is specified on this Order, Seller shall not proceed to manufacture Goods without such drawing or specification.
4. **TIME OF PERFORMANCE:** Delivery according to the schedule stated in the Purchase Order is of critical importance to Buyer's avoiding substantial loss on sales to its customers. In the event of delay, or anticipated delay, from any cause, including force majeure, Seller shall immediately notify Buyer in writing of the delay or anticipated delay, and will shorten or make up the delay by all commercially reasonable means. If Seller fails to meet Buyer's delivery requirements without Buyer's written approval, and fails to adequately assure future performance, Buyer, within ten days of Buyer's notice of intent to cancel, may cancel all or any part of this Purchase Order, subject to the terms provided in Article 24 herein, Default.
5. **EARLY DELIVERIES:** The Buyer has no obligation to accept deliveries received more than 7 days before the scheduled delivery date, and may return early deliveries at Seller's sole risk and expense. Buyer's obligation to pay for Goods delivered shall arise only on the scheduled delivery date or the actual delivery date, whichever is later.
6. **INSPECTION, EXPEDITING, AND DOCUMENTATION:** Seller is fully responsible for the design, fabrication, and construction of the Goods and for compliance with all terms, conditions, specifications, drawings, and codes. Seller shall have the obligation, and Buyer shall have the right, to inspect and expedite the Goods during manufacture, storage, transit, and upon delivery. Seller shall provide Buyer with data, drawings, specifications, test results, quality documentation, schedules and other information according to the requirements of this Purchase Order. Buyer shall have a reasonable time, not less than thirty days after receipt to inspect Goods. Buyer, at its election, may either reject nonconforming Goods, or keep nonconforming Goods, and in addition to the other available remedies, deduct a reasonable amount from the price. Buyer's inspection, waiver of inspection, and acceptance of Goods shall not relieve Seller of its obligations.
7. **CONFORMING GOODS:** The Goods shall conform strictly to the description, plans, specifications, and sample. If there are no specific descriptions, plans, specifications, or samples, and to the extent that they are not explicit, the Goods shall be new, of the latest design or model conforming to the Buyer's requirements, and of the best quality. Seller may not substitute Goods or parts of Goods, or shipment more or less than the quantity specified in this Purchase Order. If Buyer receives Goods that do not conform to these requirements, Buyer may reject such shipment in whole or in part by notifying Seller. Seller shall remove such rejected goods at Seller's expense within ten (10) days after the date of Buyer's notice.
8. **TITLE; RISK OF LOSS:** Title to the Goods, and in the event that the Goods are made to order, then title to all materials, inventory, work in progress, design data, other documentation, and all related contractual rights, shall vest in Buyer upon delivery. If Buyer makes progress payments, title shall pass in proportion to payments made. Seller shall take affirmative steps to segregate Goods and clearly label them as property of the Buyer. Seller warrants full and clear title to the Goods, free and clear of any and all liens, restriction, reservations, security interests and encumbrances. In the event that Buyer rejects Goods as nonconforming, title shall revert to Seller. Irrespective of vesting of title, Seller shall bear the risk of loss and shall insure or self-insure for the benefit of Seller and Buyer the Goods in its care, custody, and control until Goods are delivered in accordance with this Purchase Order.
9. **WARRANTY:** Seller warrants that the Goods will be free from defects in material, workmanship, and design for a period of 12 months from the date of shipment. In the case of spare or replacement parts manufactured by Seller, the warranty period shall be for a period of six months from shipment. Repairs shall be warranted for 12 months. Buyer shall report any claimed defect in writing to Seller upon discovery and in any event, within the warranty period. Seller shall repair or replace the Goods within ten (10) working days, at the original delivery point of shipment. If Buyer repairs or replaces Goods without Seller's prior written approval, Seller is relieved of obligation to Buyer under this section with respect to such Goods, unless the repair, replacement, or adjustment occurred after Seller failed to satisfy its obligations under this section. Goods shall not be deemed defective either by reason of normal wear and tear or, Buyer's failure to properly store, install, and maintain the Goods.
10. **WARRANTY REMEDIES:** If Buyer discovers any breach of warranty, then Seller, at its option, shall promptly repair or replace the Goods in question at Seller's cost. Buyer's rights and remedies in this paragraph are in addition to any other rights or remedies legally available.

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- 11. COMPLIANCE WITH APPLICABLE LAWS; INDEMNITY OBLIGATIONS:** Seller shall comply with all applicable and current laws, ordinances, codes and regulations and shall indemnify Buyer from and against all liability, including civil fines and penalties, in the event that Seller fails to do so.
- 12. PATENTS, COPYRIGHTS, TRADEMARKS, AND TRADE SECRETS:** Seller warrants, represents, and covenants that the Goods and the sale and use thereof do not infringe directly or indirectly any valid patent, copyright, property right or trademark. Seller agrees, at its cost and expense, to indemnify and hold Buyer free and harmless from and against any and all costs, expenses, liabilities or damages, including attorneys' fees, arising out of alleged or actual patent, copyright, property right, trademark or trade secret infringement.
- 13. ASSIGNMENT:** Seller may not assign this Purchase Order without Buyer's prior written consent.
- 14. CANCELLATION:** Upon written notice to Seller, Buyer may cancel all or any separable part of this Purchase Order. Seller immediately shall stop all work on the Goods, place no additional orders, and cancel its existing orders on the best possible terms. Pending Buyer's instructions, Seller shall preserve and protect Goods on hand, work in progress, all corresponding data, and completed Goods, both in its own and in any subcontracted facilities. Buyer shall have the immediate right to remove from Seller's premises the goods and all drawings, records, and parts paid for by Buyer. Buyer's only cancellation payment, if any, shall be that amount that reflects the part of the Purchase Order satisfactorily performed before cancellation, less money already paid to Seller. Seller is not entitled to recover for lost profits or other consequential or incidental damages.
- 15. CHANGES:** Buyer may make changes in the character or quantity of the Goods, or in the manner or time of performance of this Purchase Order. Buyer's changes must be communicated to Seller in writing, signed by a duly authorized representative of the Buyer. An equitable adjustment in the price and time for performance will be made by the parties in writing if such changes result in a decrease or increase in the Seller's cost or time of performance. Seller shall make no change or revision without Buyer's prior written consent, and any change requested by Buyer shall be subject to review by Seller for impact on Seller's warranty. No claim by Seller for an adjustment in the price or in the time of performance shall be considered unless presented to Buyer in writing within ten (10) days after Seller learns of the claim.
- 16. INDEMNIFICATION:** Seller agrees to defend, indemnify and hold harmless the Buyer and the Owner, and any contractor, agent or employee of either, against any fine, penalty loss, cost, damage or liability, including attorneys' fees, arising from personal injury and death of third parties or damage to their property, and arising or relating in any way to defects in the Goods or the negligence or other fault either of Seller, or those for whom it is responsible.
- 17. TAXES:** Unless otherwise provided herein, Seller's prices include all sales, use, excise and other taxes, and all duties, fees or other assessments of whatever nature imposed on Seller by governmental authorities, applicable in connection with this Purchase Order.
- 18. CONFIDENTIALITY; PROPRIETARY INFORMATION:** All data, designs, drawings, and other documents and proprietary information supplied to Seller by Buyer are confidential and shall not be used by anyone, or disclosed to anyone, except as needed for Seller to perform and fulfill its obligations under this Purchase Order. The parties' nondisclosure agreement is incorporated by this reference. No implied license of Buyer's intellectual property is created by this Purchase Order. Any exceptions to this provision must be agreed to in writing before any disclosure occurs.
- 19. PAYMENT; LIMITATION OF LIABILITY:** Buyer's obligation to pay Seller for Goods is expressly conditioned upon receipt of completed, conforming Goods. Buyer's total liability for claims by Seller shall not exceed the total purchase price of the purchase order, irrespective of the facts and legal theories underlying such claims, including, but not limited to theories of negligence and other torts. In no circumstances shall Buyer be liable to Seller for consequential and incidental damages, including but not limited to lost profits, and goodwill.
- 20. FEDERAL ACQUISITION REGULATION AND FLOWDOWN PROVISIONS:** If applicable to this Purchase Order, Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplements (DFARS) clauses in effect on the date of this Purchase Order are incorporated by this reference as if set out fully herein, except the word "Buyer" shall be substituted for the words "Contracting Officer" and the term "Seller" shall be substituted for "Contractor" wherever such words appear. Such FAR clauses include, but are not limited to FAR 52.219-9. Seller shall, upon written request, support the performance of NATO Codification of the equipment or parts delineated on the face of this Purchase Order, in accordance with NATO terms and the National Codification Bureau (NCB). Additional flow down clauses may apply and will be provided to Seller as Attachments, as required.
- 21. SUBCONTRACTORS AND SUBSUPPLIERS:** If a substantial portion of the work involved in the performance of this Purchase Order is subcontracted to another party, before using such subcontractors or suppliers in the performance of this Purchase Order, Seller shall obtain Buyer's written consent and incorporate these Terms and Conditions into the subject subcontracts.
- 22. SETOFF:** All claims for money due or to become due from Buyer shall be subject to deduction or setoff by Buyer by reason of any counterclaim arising out of this or any other transaction with Seller.
- 23. DOCUMENTATION AND RIGHT OF AUDIT:** Where Seller's invoice includes unit pricing or costs resulting from Buyer's changes, Seller shall submit Seller's determination of units of work performed, determined in accordance with the provisions of this Purchase Order and substantiated by documents satisfactory in form and content to Buyer. If Seller's invoice includes compensation for work performed on cost-plus basis, all costs, expenses, and other amounts so invoiced shall be substantiated and supported by documents satisfactory to, and verified by, Buyer. Seller shall maintain for a period of three (3) years after final payment under this Purchase Order, all records and accounts pertaining to the Goods. Buyer shall have the right to audit, copy and inspect or cause to have audited, copied and inspected those records and accounts at all reasonable times during the course of Seller's performance of the Purchase Order and for the above three (3) year period.
- 24. DEFAULT:** If Seller fails to comply with any material provision of this Purchase Order and, after written demand by Buyer, fails to

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diligently commence to cure such default within 10 days of such demand, or if Seller becomes insolvent, enters voluntary or involuntary bankruptcy or receivership proceedings, or makes an assignment for benefit or creditors, Buyer shall have the right, in addition to any other rights or remedies it may have under this Purchase Order and applicable law, to terminate this Purchase Order for default. Upon giving Seller written notice of default, Buyer may immediately take possession of all or any portion of the items identified to this Purchase Order, subject only to an obligation to equitably compensate Seller for same. Upon default termination, Seller shall be liable to Buyer for all costs in excess of the Purchase Order price incurred by Buyer in effecting completion of performance of this Purchase Order.

- 25. GOVERNING LAW:** The laws of the State of Massachusetts, excluding its conflict of law rules, shall govern this contract. If this is an international transaction, the parties agree that the United Nations Convention on the International Sale of Goods shall have no force and effect.
- 26. BUYER'S PROPERTY:** All tooling, equipment, and material furnished to Seller by Buyer, or specifically paid for by Buyer, shall remain the property of Buyer. Such property, while in Seller's custody or control, shall be held at Seller's risk and insured by Seller at Seller's expense for the replacement cost with loss payable to Buyer. Such property shall be returned to Buyer immediately upon Buyer's request in good condition FOB Seller's facilities.
- 27. ATTORNEYS' FEES:** In the event that the parties litigate any dispute arising under or relating to this Purchase Order, the prevailing party shall recover from the other all reasonable attorneys' fees and costs incurred at trial and on appeal, including those incurred in any bankruptcy proceedings.
- 28. EXPORT CONTROL:** By law, the Buyer and Seller must fully comply with all U.S. export control laws and regulations "U.S. Export Control", including the International Traffic in Arms Regulations "ITAR" (22 C.F.R. parts 120-130), and the Export Administration Regulations "EAR" (15 C.F.R. parts 730-774), for any orders that include products, technical data, software and/or technology that will be exported by the Buyer. The Buyer will, at

the time of order, inform the Seller in writing if export control is required, and work with the Seller to complete any documents required to fully comply with U.S. Export Control. The Seller will also ensure that all personnel who represent the Seller while on Buyer's premises will identify their citizenship/nationality. In the event the Buyer informs Seller that restricted items will be involved or accessible on the premises or the Seller otherwise knows that restricted items will be involved or accessible on the premises, the Seller will only send personnel who are authorized by the U.S. export regulations to receive and work with restricted items.

- 29. OBsolescence MANAGEMENT:** Seller shall notify Buyer when a component or material is no longer in production by the manufacturer. The intent is to keep Buyer informed of any potential component or material that may become obsolete per the following: a) known obsolescence/end of life (EOL) issue, b) potential obsolescence/ EOL concern (Component(s) or material may be nearing the end of their life cycle or the manufacturer has decided to, or plans to discontinue component or material in the next four (4) years. The Seller shall also provide options and/or recommendations for any parts/material that may become obsolete and shall provide Buyer with a "Last Time Purchase Notice" immediately after being made aware that material may become obsolete. Upon receipt of notice, Buyer reserves the option to place a "Last Time Purchase" under the Contract.
- 30. CONFLICT MINERALS:** If the Goods being supplied against this purchase order contain the minerals Tantalum, Cassiterite, Tungsten, Gold, Tin, or Wolframite, then the Seller shall ensure that any items or materials forming part of the Goods have been purchased from legitimate and responsible sources, which are in compliance with United Nations resolutions, and which are not in any way involved in funding conflict. If requested by the Buyer, the Seller shall provide to the Buyer all relevant information showing the source of such items and materials.
- 31. CONFLICTING OBLIGATIONS:** If Seller believes any requirements of this Purchase Order conflict with one another, Seller shall notify Buyer in writing.