

Standard Commercial Purchase Order

Terms and Conditions

Mini-Systems Incorporated (MSI), and those affiliates and subsidiaries it designates (herein after collectively "Buyer") and the person or entity to whom this purchase order is directed (herein after "Seller") agree to the following Terms and Conditions.

Mini-Systems Inc. corporate headquarters is located at 20 David Rd, North Attleboro, MA 02760

1. Acceptance

Acceptance of the offer represented by a Purchase Order or other agreement is expressly limited to the terms of such Purchase Order or other agreement.

2. Price

Purchase prices shall be as stated on the face of the Purchase Order, and shall not be subject to escalation without Buyer's prior consent. Notwithstanding the foregoing, Seller agrees that purchase prices charged shall not be less favorable than those extended to any other customer for the same or like articles in equal or lesser quantities, and that if prices for such articles are reduced prior to delivery, prices hereunder shall be reduced correspondingly.

Purchase prices are inclusive of all extra charges, including charges for packing, containers, insurance, and transportation, except as otherwise specifically provided on the face of the Purchase Order. All taxes based upon and measured by sale, use or manufacture shall be shown separately on Seller's invoice. Delays in receiving Seller's statement or invoice, and also errors and omissions on statements, shall be grounds for withholding settlement without losing any discount privileges. Seller may not refuse to ship Products to Buyer in order to force modifications to pricing. Seller's prices shall include and Seller shall disclose upon request by Buyer, in reasonable detail, a breakdown of all costs and fees, including disclosures of all material, labor, handling, shipping, and storage fees, all taxes, fees, duties, and other expenses incorporated into Seller's prices.

3. Service and Support

If Seller discontinues manufacture of the products, or the components, parts or subassemblies or does not provide any of them in a timely manner for Buyer's requirements, Seller shall make available to Buyer all software, drawings, specifications, data, documentation and know-how which shall enable and facilitate Buyer, its suppliers and its customers to purchase, manufacture, incorporate into Buyer's products, use, market, sell, modify, repair and/or reconstruct such products, components, parts and sub-assemblies.

4. Changes

Except as expressly provided for elsewhere in the Purchase Order as the parties agree that there shall be no adjustment in the price or time for performance hereunder unless an authorized representative of Buyer's Purchasing Department shall have directed a change hereto by the issuance of a written change order to the Purchase Order.

5. Payment and Discounts

Payment for goods and/or services covered by this order will be made in U.S. dollars unless otherwise stated on the Purchase Order. All payment periods and cash discount periods will be computed from the later of the date of delivery of the goods ordered, or date of receipt of correct and proper invoices prepared in accordance with the terms of the Purchase Order. For purposes of determining whether payment has been made on time or whether the discount has been earned, payment is deemed to be made on the date of postmark of Buyer's check or initiation of wire. Upon reasonable notification to Seller, Buyer may withhold and deduct from any part of the price due under this order all or any part of the damages, including consequential damages, resulting from any breach of terms and conditions contained herein, or any other amount which Seller owes Buyer, arising out of or related to the transaction which is subject of the Purchase Order or which is otherwise due from Seller or Buyer.

6. Invoicing and Addresses

MSI has three manufacturing locations. Please refer to the directory below for shipping and remittance information. One (1) invoice, dependent on site shall be mailed immediately after each shipment to:

<u>North Attleboro Site</u>	<u>Attleboro Site</u>	<u>Plainville Site</u>
Ship to: Mini-Systems Inc. 20 David Rd. North Attleboro, MA 02760	Ship to: Mini-Systems Inc. 45 Frank Mossberg Dr. Attleboro, MA 02703	Ship to: Mini-Systems Inc. 168 East Bacon St. Plainville, MA 02762
Remit to: Mini-Systems Inc. PO Box 69 North Attleboro, MA 02761	Remit to: Mini-Systems Inc. PO Box 69 North Attleboro, MA 02761	Remit to: Mini-Systems Inc. PO Box 1597 Plainville, MA 02762

In the case of (a) any delays in receiving invoice; (b) errors or omissions in invoice; or (c) lack of supporting documentation required by the terms of the Purchase Order, Buyer will have cause to withhold settlement and shall not lose any discount privilege that applied to the products affected by such action or inaction. All payments will be issued to Seller at the location specified in Seller's block on the Purchase Order, unless proper authority for deviation is supplied to Buyer's Accounts Payable Department.

7. Delivery

Time of delivery, as provided, is of the essence. Seller must notify Buyer as soon as possible but no later than 10 business days in advance of delivery schedule that will not be met or if material is on back order. If Seller for any reason (including but not limited to labor disputes, force majeure, work stoppings, acts of God or civil unrest) does not meet the time of delivery as to all goods ordered, Buyer may at its option either approve the revised delivery schedule, reduce the total quantity covered by the Purchase Order by the amount of omitted shipments reducing the price pro rata, or terminate the Purchase Order, without liability for any such revision, reduction or termination.

Deliveries made more than 5 days in advance of the designated schedule are prohibited without Buyer's prior written consent. Date stated on P.O. is on dock at MSI, not ship date.

8. Late Shipments

If Seller is not able to meet a delivery date, Seller shall either ship the products on an expedited basis or offer and deliver a substitute product which is acceptable to Buyer as determined in Buyer's sole and absolute discretion. Seller will pay all costs in excess of those that would have been incurred by Buyer had Seller performed according to Buyer's instructions resulting from Seller's expedited shipments or substitute products. If Buyer must use alternate sources or methods to satisfy its supply requirements because of Seller's failure to perform in accordance with the Purchase Order or other agreement, then Seller shall be responsible for all costs in excess of those that Buyer would have otherwise incurred had Seller fully performed its obligations.

9. Shipping and Title

Except as otherwise expressly provided herein, title to all items shipped by Seller to Buyer shall pass to Buyer upon Buyer's inspection and acceptance of such items at Buyer's dock. An itemized packing slip referencing Buyer's purchase order numbers, part number, and any special instructions must be plainly marked on all invoices, packages, bill of lading, and shipping orders. Shipping memos or packing lists must accompany all material. Bill of lading or shipping receipts shall accompany each invoice. Buyer's count or weight shall be final and conclusive on shipments not accompanied by shipping memos or packing lists. Failure to provide packing slips with proper numbers may result in excusable delay in processing Seller's invoices. All shipments to be made per Buyer's vendor routing instructions.

10. Company Property

All tooling, dies, parts, schedules and specifications, and all reproductions thereof, and any other property furnished to Seller by Buyer, or paid for (in whole or in part) by Buyer shall be the exclusive property of Buyer, clearly so identified, and subject to removal at any time upon Buyer's demand, and shall be used solely in filling orders from Buyer or its nominee. Seller assumes all liability for loss of, and damage to, such property and Seller shall, unless otherwise directed in writing by Buyer, insure at Seller's expense such property in amount equal to the replacement cost thereof with losses payable to Buyer.

11. Disputes

Any dispute arising hereunder which is not disposed of by agreement shall be decided by Buyer who shall set forth its decision in writing and mail or otherwise furnish a copy thereof to Seller. Buyer's decision shall be final and conclusive, unless within 30 days from the date of receipt of the decision by Seller, Seller submits the controversy or claim to arbitration in Bristol County, Massachusetts, or such other location to be designated by Buyer, in accordance with the rules of the American Arbitration Association. A copy of such submission shall be simultaneously furnished to Buyer. Any judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Pending final decisions or arbitration of any dispute, Seller shall proceed diligently with performance of the Purchase Order and in accordance with Buyer's direction and shall comply fully with its obligations thereunder. Seller's failure to continue performance during the pendency of any litigation or arbitration shall entitle Buyer to enhanced damages and attorney fees.

12. Warranties and Reworks

In addition to warranty claims arising out of the non-conformance of Supplier's products with specifications, all warranties are intended to provide Buyer with protection from any and all warranty claims brought against Buyer by its customer and others. This includes, without limitation, meeting any customer-required warranties relating to goods into which the products are incorporated. All such customer-required warranties are incorporated herein by reference. Seller represents and warrants that its products are merchantable, free from any defects in material or workmanship and shall perform in accordance with any manufacturer's warranties. If any product fails to satisfy the warranty during any applicable warranty period, whether or not resold and shipped by Buyer, Buyer shall give written notice of such defective product(s) to Seller within 120 days of the date that Buyer becomes aware of such failure and shall deliver the defective product(s) to Seller within 120 days of the date when Buyer receives possession of such defective product(s). At Buyer's election, (i) Buyer may require that Seller promptly deliver to Buyer replacement products, (ii) Buyer may set-off that portion of the price attributable to the defective products against current or future amounts owing to Seller, or (iii) Seller shall credit any amounts owing from Buyer for that portion of the price attributable to defective products. Buyer shall ship any defective or non-conforming products to Seller on a freight prepaid basis and, at Buyer's election, deduct the amount of such prepaid freight from amounts owed to Seller or receive prompt reimbursement from Seller. If Buyer elects to receive replacement products, Seller shall deliver such replacement products to Buyer FOB Delivery Point on an expedited basis. All costs associated with the return of products to Seller and the redelivery of conforming products to Buyer for failure to satisfy the acceptance testing or warranty shall be at Seller's sole cost and expense.

13. Proprietary Information

Any information or knowledge which Buyer may have disclosed or may hereafter disclose to Seller in connection with the products or the Purchase Order shall be deemed confidential and proprietary information of Buyer and shall not be disclosed by Seller to any third party without the prior written consent of an officer of Buyer. Any knowledge or information which Seller shall have disclosed or may hereafter disclose to Buyer in connection with the products or the Purchase Order shall not, unless otherwise specifically agreed upon, on a case-by-case basis, in writing by an officer of Buyer, be deemed to be confidential or proprietary information, and accordingly shall be acquired free from any restriction. Notwithstanding anything to the contrary herein contained, no employee of Buyer has authority to make any agreement, express or implied, limiting the use or publication of, or providing for confidential treatment of information of whatever kind, unless such agreement is made in writing and signed by an officer of Buyer.

14. Overshipments

Subject to inspection and acceptance, Buyer will be liable for payment only for quantities ordered and delivered unless otherwise specified. Overshipments must have prior written approval from Buyer. Overshipments not authorized shall be held at Seller's risk and expense for a reasonable time awaiting shipping instructions. Shipping charges for return shall be at Seller's expense.

15. Release Authorization

When deliveries are specified to be in accordance with Buyer's written releases, Seller will not fabricate or assemble any goods, nor procure required materials, nor ship any products, except to the extent authorized by such written or electronic releases or provisions of the Purchase Order specifying minimum fabrication or delivery quantities.

16. Indemnification

Seller shall indemnify, defend and hold Buyer harmless from and against any claim, loss, damage, expense or liability.

17. Inspection

Buyer may inspect and evaluate all products (including all tooling and material used in their manufacture), and all services at times and places designated by Buyer. Seller will perform its inspections as designated by Buyer and Seller will make inspection systems, procedures and records available to Buyer upon request.

18. Packing, Marking, and Shipment

Seller will pack and mark products in accordance with Buyer's instructions, secure the lowest transportation rates, meet carrier requirements and assure delivery free of damage and deterioration. Seller is responsible for the products until delivery at the designated FOB point. Prices specified include all charges and expenses for containers, packing and crating, and transportation to the FOB point. All containers, packing and crating material will become the property of Buyer upon delivery. Buyer may specify the carrier and/or method of transportation and Seller will process shipping documents and route shipment of the products in accordance with Buyer's instructions. Unless otherwise specified on the face of a Purchase Order, shipping shall be FOB Delivery Point.

19. Risk of Loss

Unless a Purchase Order specifically provides otherwise, risk of loss or damage to products covered by a Purchase Order shall remain with Seller until, and shall pass to Buyer, only upon (i) delivery of the Products on board a carrier, if transportation is FOB Origin, or (ii) formal acceptance by Buyer or delivery of possession of the products to Buyer at the destination specified in the Purchase Order, whichever is later, if transportation is FOB Delivery Point, except for products which fail to conform which shall remain with Seller until any nonconformance has been cured.

20. Work on Site

When work under a Purchase Order is performed on Buyer's premises, Seller agrees to indemnify and protect Buyer against all liability for injury or damages to any person or property arising therefrom. Seller agrees, upon Buyer's request, to furnish a certificate from its insurance carriers showing that it carries workmen's compensation, public liability and property damage insurance coverage acceptable to Buyer and names Buyer as an additional loss payee.

21. Applicable Law

The laws of the State of Massachusetts shall be deemed applicable to all aspects of the transaction covering material ordered hereunder. Any action in connection with a Purchase Order or other agreement shall be brought exclusively in the federal or state courts of the State of Massachusetts, and both parties consent to the jurisdiction thereof.

22. Compliance with Laws

Seller agrees to comply with, and represents and warrants that it has fully complied with, all applicable laws, statutes, regulations, and ordinances of each country, state, province, county, municipality or other applicable governmental body, authority, and agency in connection with the manufacture, shipping and delivery of products.

23. Stop Work Order

Buyer may at any time, by written order to Seller, require Seller to stop all or any part of the work under a Purchase Order for a period of 90 days, and for any further period agreed to by the parties. Upon receipt of a stop work order, Seller shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of cost allocated to the work covered by the Purchase Order during the period of work stoppage. Within 90 days or any extension thereof after delivery of a stop work order, Buyer shall either (i) cancel the stop work order, (ii) cancel the stop work order and make changes to the Purchase Order as described in the paragraph entitled "Changes" herein, or (iii) terminate the Purchase Order.

24. Rejections

Notwithstanding payment or any prior inspection, if any of the products, material or services are found to be defective in material or workmanship, or otherwise not in conformance with the requirements of a Purchase Order, at any time after delivery, then in addition to any other rights or remedies which it may have under warranty or otherwise, Buyer shall have the right to reject and return such to Seller (at Seller's expense and risk of loss) products, material or services to be corrected or replaced promptly with satisfactory products, material or services in accordance with directions accompanying a notice of rejection. Without limiting its remedies, after notice to Seller, Buyer may also either (i) replace or correct any non-conforming products or services and charge Seller the cost of such replacement or correction, or (ii) cancel the Purchase Order, or any part thereof, for default.

25. Insurance

Seller shall maintain, with reputable companies, insurance in amounts sufficient to protect Buyer from any and all supply interruption, public safety and liability, workmen's compensation or other claims during the performance of a Purchase Order. Buyer may demand evidence of adequate insurance and Seller shall provide same on request. Seller shall ensure that Buyer is listed as an additional insured and loss payee on all such policies contemplated above and shall provide Buyer thirty (30) days' written notice prior to any changes to insurance affecting Buyer.

26. Advertising

Seller shall not, without first obtaining the written consent of Buyer, in any manner advertise or publish the fact that Seller has supplied or contracted to supply Buyer any products, materials or services contemplated hereunder or under any Purchase Order.

27. Drawings, Designs, and Specifications

Unless specially excluded on the face of a Purchase Order, Buyer, upon termination of a Purchase Order for any reason, may at its own option, use all drawings, sketches, designs, design data, specifications, know how, process requirements and operating parameters, technical and scientific data, memoranda and proprietary information of every description whatsoever relating to such Purchase Order whether created by Buyer or Seller, without further compensation to Seller. Unless otherwise stated in writing on the face of a Purchase Order, Buyer's use of Seller's above mentioned proprietary information shall be on a non-exclusive basis.

28. Buyer's Property.

Seller shall not purchase for the account of Buyer or charge to Buyer the costs of any tools, dies, jigs, molds, fixtures, patterns or other materials or equipment used or useable for producing Products pursuant to the Purchase Order, unless such Tools have been listed on the Purchase Order. Seller shall have only temporary possession of Buyer's Property, and shall deliver all or any part thereof to Buyer immediately upon demand. Seller at its own expense shall keep all Buyer's Property maintained in good working order in accordance with the manufacturer's specifications and any replacement parts installed on Buyer's Property or any other modifications or improvements thereto shall become the Property of Buyer. Seller shall maintain records of all maintenance and repairs performed on Buyer's Property.

29. Force Majeure

Buyer may delay delivery or acceptance occasioned by causes beyond its reasonable control. Seller shall hold such goods at its cost and expense and, at the direction of Buyer, shall deliver them when the cause affecting the delay has been removed. Seller shall also be excused if delivery is delayed by the occurrence of unforeseen and unforeseeable events, provided Seller notifies Buyer its best estimate of such events as soon as they occur, and gives Buyer its best estimate of revised delivery dates. If any delay exceeds 30 days from the original delivery date, Buyer may cancel the Purchase Order without any liability. If Seller's production is only partially restricted or delayed, it shall use its best efforts to accommodate the requirements of Buyer, including giving the Purchase Order preference and priority over those of other customers which were placed after the Purchase Order.

30. Default

(a) Buyer may, subject to the provisions of paragraph (c) below, by written notice of default to Seller, terminate all or any part of a Purchase Order if (i) Seller fails to make delivery of the products or to perform the services within the time specified herein or any extension thereof; or (ii) Seller fails to perform any of the other provisions of the Purchase Order, breaches any representation, warranty or covenant or so fails to make progress as to endanger performance of the Purchase Order, in accordance with its terms, and fails to cure such failure within a period of 15 days (or such longer period as Buyer may authorize in writing; but only to the extent curable) after receipt of notice from Buyer.

(b) In the event Buyer terminates the Purchase Order in whole or in part as provided in paragraph (a) above, Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, products or services similar to those so terminated, and Seller shall be liable to Buyer for any excess costs of such similar products or services.

(c) If the Purchase Order is terminated as provided in paragraph (a) above, Buyer, in addition to any other rights or remedies provided in this clause may require Seller to transfer title and deliver to Buyer in the manner and to the extent directed by Buyer any completed products and such partially completed products as Seller has specifically produced or specifically acquired for the performance of such part of the Purchase Order as has been terminated; and Seller shall, upon direction of Buyer, protect and preserve property in possession of Seller in which Buyer has an interest. Payment for completed products delivered to and accepted by Buyer shall be at the Purchase Order price, prorated as applicable if products are partially completed. Payment for manufacturing material delivered to and accepted by Buyer and for protection and preservation of property shall be at Seller's cost or, if items are determined by Buyer to be obsolete, at Seller's net book value.

(e) The rights and remedies of Buyer provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided at law or in equity.

(f) The failure of Buyer to insist upon strict performance of any of the terms or to exercise any rights herein conferred, shall not be construed as a waiver of Buyer's right to assent or rely on any such terms or rights on any future occasion.

(g) It is understood and agreed that Seller shall reimburse Buyer for all reasonable attorney's fees and costs incurred by Buyer in order to enforce any provision of a Purchase Order, any damages resulting from the breach thereof, or in pursuing any other remedy hereunder at law or in equity.

31. Termination for Insolvency or Sale of Assets or Change of Control

Buyer may immediately cancel a Purchase Order, and the duties and obligations thereunder, without any liability to Seller, in the event of any of the following: (i) insolvency of Seller; (ii) filing of a voluntary petition in bankruptcy by Seller; (iii) filing of an involuntary petition in bankruptcy against Seller; (iv) appointment of a receiver or trustee for Seller; (v) execution of an assignment for the benefit of creditors by Seller, provided that such petition, appointment or assignment is not vacated or nullified within 30 days of such event, (vi) Seller sells, or offers to sell, a material portion of its assets, or (vii) Seller sells or exchanges, or offers to sell or exchange, or causes to be sold or exchanged, a sufficient amount of its equity that effects a change of control.

32. Termination for Cause

Buyer may terminate a Purchase Order immediately with written notice to Seller, if Seller materially breaches any term or condition of such Purchase Order or a related order and fails to cure such breach within 15 days after notice thereof is given by Buyer (to the extent curable). Furthermore, Buyer may terminate a Purchase Order immediately with respect to a particular product if Seller fails to reasonably meet the performance requirements of Buyer with respect to such product as determined in Buyer's reasonable discretion, including, without limitation, the failure of Seller to remain competitive with respect to cost, quality, price, technology and/or value of the product. Termination for cause shall be upon written notice and shall limit Buyer's liability solely to payment for products delivered and formally accepted prior to termination or services rendered and accepted prior to termination; provided such products or services are in full conformance with the terms and conditions of the Purchase Order and any specifications set forth therein. In no event shall Buyer be liable for payment for any products or services which are the basis for any termination for cause.

33. Termination Due to Loss of End Use Customer

Buyer retains the right to terminate a Purchase Order in the event that the end use customer of Buyer shall cancel the program for the products used by such customer and Buyer shall provide notice to Seller of such cancellation promptly after Buyer receives notice from such end use customer. In the event of such termination, Buyer's sole liability shall be the same as if the Purchase Order had been a "Termination for Convenience," as provided below.

34. Acknowledgment

The seller will comply with all provisions of Executive Order 11246 as amended, the provisions found in 41 C.F.R. sections 60-741 (Disabled Persons) and sections 60-250 (Veterans), and all relevant rules, regulations, and orders of the Secretary of Labor.

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