



## TERMS AND CONDITIONS

### **A. ACCEPTANCE OF CONTROLLING TERMS AND CONDITIONS**

1. This order is Buyer's exclusive offer to purchase the goods and services described on the reverse hereof from External Provider. Buyer's placement of this order with External Provider is expressly conditioned upon External Provider's acceptance of all of the terms and conditions of this purchase order.
2. This purchase order expressly limits acceptance of the terms and conditions stated herein and any supplementary or additional terms and conditions annexed hereto or incorporated herein by reference and additional or different terms and conditions proposed by External Provider are objected to and hereby rejected.

### **B. EXTERNAL PROVIDER PURCHASING SPECIFICATIONS REQUIREMENTS**

1. External provider shall ensure that it can provide the product and services offered. Personnel shall have the qualifications required to meet the requirements of the products and/or services as specified in the applicable drawings, specifications, standards and most current revision of AS9100 and ISO9001, statutory regulatory requirements and purchasing order.
2. This purchase specification applies to external providers of base materials purchased by Cirexx International. Deviations from the requirements of this specification must be provide to Cirexx International in writing and submitted to our Purchasing Department for approval or waiver. Cirexx International Purchasing will communicate acceptance of a request for deviation in writing via a revised purchase order or email when appropriate.
3. External provider shall manufacture products in accordance with the IPC specification noted on the Cirexx International purchase order when applicable.
4. External provider shall utilize the description on Cirexx International's purchase order to determine product characteristics (thickness, size, product type, etc.).
5. External providers shall ensure Cirexx International requirements as stated on the purchase order, this document and applicable specifications are flowed down to sub-tier external providers to make certain conformance to Cirexx International requirements.
6. For additional requirements, please go to the [External Provider Purchasing Specification document Q0602-P](#).

### **C. ENSURE THAT YOUR PERSONNEL ARE AWARE OF THEIR:**

1. Contribution to product of services conformity
2. Contribution to product safety
3. Importance of ethical behavior

### **D. OBSOLETE OR DISCONTINUED MATERIAL**

1. External provider must notify Cirexx within 90 days of any laminate, prepreg, coverlays & bondplys that will be discontinued and could affect performance or delivery along with an alternative material offering.

### **E. SPECIAL CHARGES**

1. External Provider shall be responsible for the payment of all charges for handling, packaging, wrapping, bags, containers and related matters unless Buyer noted on the reverse side hereof.

### **F. DELIVERY**

1. Time is of the essence, and this order may be terminated if delivery is not made or services are not performed by the date specified on the reverse side hereof. No change in the scheduled delivery date or performance will be permitted without Buyer's prior written consent. No acceptance of goods or services after the scheduled delivery date will wave Buyer's rights with respect to such late delivery nor shall it be deemed a waiver of future compliance with terms hereof.

### **G. PAYMENT**

1. Buyer will remit payment to External Provider by mail. External Provider agrees not to deliver goods on a sight draft basis.

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## **H. ASSIGNMENT**

1. External Provider shall not assign this contract or the right to payment due hereunder, without Buyer's written consent.

## **I. LIENS, CLAIMS AND ENCUMBRANCES**

1. External Provider warrants and represents that the goods will, when delivered hereunder, be free and clear of all liens, claims or encumbrances of every kind.

## **J. REJECTION**

1. All goods purchased hereunder are subject to Buyer's inspection and approval. Goods rejected by Buyer for whatever reason shall be held, transported and/or stored at External Provider's sole expense. External Provider shall promptly reimburse Buyer for any such expenses.

## **K. DEFAULT**

1. Buyers may, subject to the provisions of paragraph "I" by written notice of default to External Provider, cancel the whole or any part of this order or exercise any other remedy provided Buyers of goods by law or in equity including any remedy under the Uniform Commercial Code [RCW Chapter 62A], in any of the following Circumstances:
  - i. If the External Provider fails to make delivery of the goods or to perform the services within the time specified herein or any extensions thereof;
  - ii. If, in Buyer's good faith judgment, the External Provider fails to perform any of the other provisions of this order or fails to make progress as to endanger performance of this order in accordance with its term and does not cure such failure within a period of ten days, or such longer period as Buyer's may authorize in writing, after such receipt of notice from Buyers specifying such failure:
  - iii. External Provider is in breach of any of the terms or conditions of this order; or,
  - iv. If External Provider becomes insolvent or makes an assignment for the benefit of creditors, or if there shall be instituted by or against External Provider any proceeding under any bankruptcy, reorganization, readjustment of debt or insolvency law.

## **L. REMEDIES**

1. Not by way of limitation, the remedies of the parties include:
2. If Buyer cancels this order in whole or in part as provided in paragraph "3", Buyer may procure upon such terms and in such manner as Buyer may deem appropriate goods or services similar to those cancelled and External Provider shall be liable to Buyer for any excess costs for such similar supplies or services, provided that External Provider shall continue the performance of this order to the extent not cancelled under the provisions of this order.
3. 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 by law or under this order.
4. The failure of the Buyer to insist upon strict performance of any of the terms of this order or to exercise any rights hereunder shall not be construed as a waiver of Buyer's rights.

## **M. WARRANTY**

1. External Provider warrants that all supplies furnished hereunder will be free from defects in material and workmanship, conform to applicable specifications, drawings, samples and descriptions or other requirements of this order, unless Buyer's detailed design, be free from design defects. If there is a breach of warranty, Buyer may return such supplies, at External Provider's expense, for correction, replacement or credit as Buyer may elect. Supplies required to be corrected or replaced shall be subject to the provisions of this clause and the clause herein entitled "Quality Control and Inspection." All warranties shall run to Buyer and its customers.

## **N. INSPECTION AND QUALITY CONTROL**

1. All terms furnished under this order by External Provider to Buyer shall be subject to inspection and tests by Buyer, or representatives of third party purchasing Buyer's product in which terms will be used ["User's Representative"]. To the extent practicable inspection may be made at all times and places, including the period of manufacture and prior to acceptance.
  - i. Cirexx International reserves the right of final approval of product, procedures, processes and equipment.
  - ii. All special processes required by this PO must be performed by qualified personnel.
2. Cirexx International reserves the right to review and approve the External Provider's Quality Management System. Standard QMS Requirements Include:
  - i. External Provider providing special processing must maintain a system for validating processes.
  - ii. Customer Directed sources must operate in accordance with approved specifications and standards as dictated and controlled by the customer in question. iii. External Provider initially approved for

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use via Certification (ISO, AS9100, etc) must notify Cirexx International of any changes to that certification.

3. The External Provider shall maintain the proper identification and revision status of specifications, drawings, process requirements, inspection/verification instructions and other relevant technical data.
4. Cirexx International reserves the right to approve or specify any designs, tests, inspection plans, verifications, use of statistical techniques for product acceptance, and any applicable critical items including key characteristics.
5. Cirexx International reserves the right to designate requirements for test specimens for design approval, inspection/verification, investigation or auditing.
6. In case of rejection Buyer shall not be liable for any reduction in value of samples used in connection with such inspection or test. All inspections and tests by Buyer shall be performed in such a manner as to not unduly delay the work. Buyer reserves the right to charge External Provider any additional cost to inspect and test when supplies are not ready at the time such inspection and test is requested by External Provider or when reinspection or retest is necessitated by prior rejection. Inspection and acceptance of rejection of the supplies shall be made as promptly as practicable after delivery and may be specified herein, regardless of prior payment. Failure to inspect, accept or reject goods shall neither relieve External Provider from responsibility for such supplies as are not in accordance with the order requirements nor impose liability on Buyer.
7. External Provider shall provide and maintain inspection and quality control systems acceptable to buyer covering the items furnished hereunder. Records of all inspection work by both Buyer and External Provider shall be kept intact and made available upon request to the other party during the performance of this order and for 7 years following delivery under this order.
8. Without limiting the generality of paragraph "K.1.," the External Provider agrees if a special production run is made, that the first item produced on this order is subject to first article acceptance prior to further fabrication. If the first piece submitted fails to meet the inspection acceptance requirements, a new first piece will be submitted for approval. This procedure shall be continued until an acceptable first article has been approved. First article acceptance shall be based on the requirements of the drawings, specifications, and purchase documents as applicable. Acceptance of the first article shall not be considered acceptance of subsequent part production.
9. External Provider shall provide appropriate material certifications as described on the reverse hereof, including but not limited to, American Bureau of Shipping Inspection Certificates, material, physical, and/or chemical analysis certifications, OSHA/MSHA Material Safety Data Sheets.
10. The External Provider is required to notify Cirexx of the following:
  - i. Non-conforming product and obtain our organization approval for nonconforming product disposition on specialty products order per Cirexx specified designs (non-standard items.).
  - ii. Changes in product and/or process, changes of external providers, and changes of manufacturing facility locations.
  - iii. Flow down to the supply chain the applicable requirements including customer requirements.
11. The External Provider is required to supply product that has a remaining shelf life of at least 90 Days of original life as of the date of shipment.
12. The External Provider is required to retain all Records associated with the Purchase Order for 7 (seven) years or as required by contract.
13. Right of access by our Cirexx International, our customer and regulatory authorities to the applicable areas of all facilities, at any level of the supply chain, involved in the order and to all applicable records.
14. All Calibration Certificates must identify standards used and must be traceable to NIST (National Institute of Standards Technology).
15. **All External Providers that performed calibration services for Cirexx International shall comply and/or conformed to the most current revision of the calibration industry specifications as applicable to the type of calibration they perform. Such as, ANSI/NCCL Z540, ANSI/ISO/IEC 17025, or ISO-10012.**

## **O. INFRINGEMENTS**

1. External Provider warrants that Buyer's purchase, installation, and/or use of the goods covered hereby will not result in any claim of infringement, or actual infringement of any patent, trademark, copyright, franchise or other intellectual property right.

## **P. RISK OF LOSS**

1. Regardless of F.O.B. Point, External Provider agrees to bear all risk of loss, injury, or destruction of goods and materials ordered herein which occur prior to acceptance by Buyer. No such loss, injury, or destruction shall release External Provider from any obligations hereunder.

## **Q. INDEMNIFICATION**

1. **HOLD HARMLESS:** External Provider shall indemnify and hold Buyer harmless from and against all claims, losses, expenses, damages, causes of actions and liabilities of every kind and nature including without limitation reasonable attorney's fees, without waiver of External Provider's obligation to indemnify Buyer hereunder,

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arising from or out of any alleged breach of any of External Provider's obligations or warranties hereunder or from other acts or omissions of External Provider, its officers, agents, employees, subcontractors, and guests, howsoever caused, instituted by persons who purchase from Buyer or use of product purchased from External Provider.

#### **R. SMALL BUSINESS**

1. External Provider must comply with government provision 7: 104 of Utilization of Small Business and Small Disadvantaged Business Concerns if applicable.

#### **S. REGULATIONS**

1. All equipment must be manufactured in accordance with National Electric Code. It is the responsibility of the manufacturer to bring the equipment into conformance if found deficient by an independent third party.
2. In support of the clean air act of 1990 the External Provider will not provide to the buyer any goods which have used CFCs or ODCs in the manufacturing process.
3. External Provider shall comply with the conditions of the Federal Occupational Safety and Health Act of 1970, [OSHA], the Washington Industrial Safety and Health Act of 1973 [WISHA], as amended, and the standards and regulations issued thereunder, and certifies that all items furnished and purchased under this order will conform to and comply with such applicable standards and regulations.

#### **T. INTELLECTUAL PROPERTY**

1. External Provider shall indemnify, defend and hold harmless Buyer, and its subsidiaries, affiliates and parent companies and their respective directors, officers, employees, agents representatives, successors and assigns, whether acting in the course of their employment or otherwise, from any and all costs, damages, and expenses (including, but not limited to, attorney and professional fees) related to any suit, claim or proceeding brought against Buyer or Buyer's customers (or the investigation thereof) based on a claim that any goods and/or services, or any part thereof, furnished under the Purchase Order, including any device or process necessarily resulting from the use thereof, allegedly or actually constitutes an infringement of any patent, copyright, trademark, trade secret or other intellectual property or proprietary right of any third party. Buyer shall notify External Provider promptly and give information and assistance, at External Provider's expense, for the investigation and defense of such claim. If use of any or all goods and/or services are enjoined, External Provider shall, at its own expense and at its option, either procure for Buyer the right to continue using such goods and/or services or replace same with a non-infringing but functional equivalent subject to Buyer's acceptance of such modified goods or services in Buyer's sole discretion.

#### **U. DISCLOSURE OF INFORMATION**

1. All data and information not already in the public domain, developed during the life of this order, will be the property of the Buyer and will be classified in secrecy and confidence by the External Provider. External Provider will keep confidential all such data and information until it comes into the public domain or until Buyer's Purchasing Agent consents in writing to disclosure.

#### **V. ATTORNEYS' FEES**

1. In any suit or action brought to enforce any item, condition, or covenant herein, or to recover damages arising from any breach of this contract, the losing party reasonable attorneys' fees and all other costs and expenses which may be incurred by the prevailing party in any suit or action and in any reviews thereof and appeals there from.
2. **LAW:** The Laws of the State of California shall govern this order, and the venue of any action brought hereunder may be laid or transferred to the County of Santa Clara, State of California.

#### **W. CIREXX INTERNATIONAL INC.**

1. is an AS9100 certified company and is committed to excellence and leadership in protecting the environment, the health and safety of our employees and our communities Vendors, contractors, and External Providers are expected to be familiar with our Environmental Policy and to provide services in a manner to help Cirexx International, inc. achieve these goals. External providers shall provide competent personnel to work on behalf of Cirexx Int'l Inc. in compliance with our environmental management system.

#### **X. International Traffic in Arms Regulations (ITAR) (when applicable):**

1. U.S Export Law as contained in the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations (EAR) is applicable to all technical information submitted with/during this PO/RFQ. This technical information is not to be placed in the public domain, exported from the U.S., or given to any foreign person in the U.S. without the prior, specific written authorization for our end customer and the U.S. Department of State or the U.S. Department of Commerce as applicable. If the purchase order will result in an import shipment for which Cirexx will be the importer or record, approval for such foreign procurement must be obtained from the buyer prior to shipments.

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