

ECONOLITE CONTROL PRODUCTS, INC. PURCHASE ORDER STANDARD TERMS AND CONDITIONS

The following Terms and Conditions apply to purchases of all goods and services. As used herein, "Seller" refers to the person or entity listed on the face of this Order. "Purchaser" refers to Econolite Control Products, Inc., a California corporation.

STANDARD TERMS AND CONDITIONS

1. **Delivery and Acceptance.** Time is of the essence in delivery of this order. The date specified for delivery is the required delivery date at Purchaser's F.O.B. destination. Unless otherwise specifically noted herein, Purchaser reserves the right to refuse any goods or services and to cancel all or any part hereof if Seller fails to deliver all or any part of the goods or perform all or any part of services in accordance with the terms specified herein. Delivery shall not be deemed complete until goods have been received and accepted by Purchaser or until orders for services have been performed, received, and accepted by Purchaser. Purchaser is not obligated to accept shipments exceeding the ordered quantity and any excess or advance shipments may be returned to Seller at Seller's expense. Purchaser may delay delivery or acceptance due to causes beyond its control, such as government action, acts of war, strikes, fire, acts of God or acts of Seller. In the event of any such delay, the date of delivery or of performance shall be extended for a period equal to the time lost by reason of the delay.

2. **Acceptance/Modification of Terms.** This Order may be accepted only by Seller's agreement to all terms and conditions of this Order. Acceptance may be made by signing the acknowledgment copy hereof and returning it or by part performance hereunder, and any such acceptance shall constitute an unqualified agreement to the terms and conditions set forth herein, unless otherwise modified in writing by the parties. Acceptance of this Order is limited to the terms and conditions stated herein. Any additional or different terms or conditions proposed by Seller are objected to by Purchaser and shall not be effective or binding on Purchaser unless assented to in writing by an authorized representative of Purchaser. Acceptance of this Order shall not be deemed a waiver of Purchaser's rights to cancel or return all or any part of the goods for failure to conform to the Order or due to defect (latent or patent) or other breach of warranty, or to make any claim for damages, including manufacturing cost or loss of profits, injury to reputation, or other special consequential and incidental damages.

3. **Seller's Warranties.** Seller represents and warrants that (1) the price charged for the goods and/ or services purchased pursuant hereto shall be no higher than Seller's current price to any other customer for the same quality and quantity of goods and/or services; (2) all such goods shall be new, unless otherwise specified, and free from defects in material or workmanship; (3) all goods will conform to applicable specifications, drawings, and standards of quality and performance, and all goods will be free from defects in their design and suitable for their intended purpose; (4) the goods covered by this order are fit and safe for consumer use, if so intended; and (5) all services pursuant hereto shall be performed in accordance with Purchaser's specifications and instructions, provided that Seller retains discretion and control with respect to the manner and means of performing such services and shall at all times remain an independent contractor. All the representations and warranties of Seller together with its service warranties and guarantees, if any, shall run to Purchaser and Purchaser's customers. Seller agrees to indemnify and hold harmless Purchaser from all claims, liability loss, damage and expense including special, consequential, and incidental damages incurred or sustained by Purchaser by reason of any breach of warranty with respect to the goods or services which are purchased in accordance herewith. The foregoing warranties shall survive any delivery, inspection, acceptance, or payment by Purchaser.

4. **Interchangeability.** All items furnished on this order under the part number specified shall be fully interchangeable with and equal in function and quality to articles heretofore furnished under the same part number.

5. **Packing and Shipping.** The goods purchased hereunder must be suitably packaged and prepared for shipment to adequately protect the goods or appropriately packed to comply with any specific requirements of Purchaser, and in all cases, to comply with carrier regulations. All charges for packing, crating and transportation are included in the price of the goods stated herein and will be paid by Seller, except as otherwise specifically stated in this Order. A Packing List shall accompany each shipment, showing the Order number, the item number, and a description of the contents. If no Packing List accompanies any shipment, Purchaser's good faith determination of the contents thereof shall be conclusive.

6. **Responsibility for Goods.** Except as otherwise provided in this Order, Seller shall bear the risk of loss or damage to the goods covered hereunder until delivered to, and accepted by, Purchaser. Seller shall also bear such risk with respect to rejected goods after receipt of Purchaser's notice of rejection; however, Purchaser shall bear the risk of loss or damage to rejected goods caused by the negligence of its officers, agents or employees while acting within the scope of their employment. Purchaser shall have a reasonable time after delivery to inspect and to accept or reject.

7. **Release of Information.** Seller agrees that prior to the issuance of any publicity or publication of any advertising which in either case makes reference to this order, or to Purchaser, Seller will obtain the written permission of Purchaser with respect thereto.

8. **Use of Designs, Data, Etc.** Seller agrees that it will keep confidential the features of any equipment tools, gauges, patterns, designs, drawings, engineering data or other technical or proprietary information furnished by Purchaser and use such items only in the production of items under this or other Orders from Purchaser and not otherwise, unless Purchaser's written consent is first obtained. Upon completion or termination of this Order, Seller shall return all such items to Purchaser or make such other disposition thereof as may be directed or approved by Purchaser.

9. **Inspection.** All goods supplied and services performed pursuant hereto shall be subject to inspection and test by Purchaser whether during or after manufacture of goods or performance of service. In the event that the goods or services do not perform in accordance with the specifications and instructions of Purchaser, Purchaser may require prompt correction thereof, or may require that the goods be replaced at Seller's expense, or as to the services, require that the services be rendered again at Seller's expense. If such defects exist or if Seller is unable or refuses to replace the goods or render the service again promptly, Purchaser may replace such goods or obtain such services and charge Seller or deduct from amounts owed by Purchaser to Seller.

10. **Default.** (a) Purchaser may, by written notice of default to Seller, terminate the whole or any part of this Order if any of the following occurs: (1) Seller fails to deliver the goods or perform the services within the time specified herein or any extension thereof; (2) Seller fails to perform any of the provisions of this Order or fails to make progress so as to endanger performance hereof, and does not cure such failure within 10 days of receipt of such notice from Purchaser; (3) Seller becomes insolvent or subject to bankruptcy or related proceedings, or admits in writing the inability to pay its debts as they become due; or (4) Seller fails to provide, within a reasonable amount of time after demand by Purchaser, written assurance of performance.

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(b) If this Order is so terminated, Purchaser may obtain, upon such terms and in such a manner as Purchaser deems appropriate, goods or services similar to those to be terminated. Seller, subject to the exceptions below, shall be liable to Purchaser for any excess costs of such similar goods and or services.

(c) Seller shall transfer title and deliver to Purchaser, as requested in writing by Purchaser at or after termination, such complete articles, partially completed articles and materials, parts, tools, dies, patterns, jigs, fixtures, plans, drawings, information and contract rights as Seller has produced or acquired for the performance of the terminated part of this Order and Purchaser shall pay Seller the contract price for completed articles delivered to and accepted by Purchaser and the fair value of other property of Seller so requested and delivered.

(d) Seller shall continue performance of this Order to the extent not terminated. Purchaser shall have no obligations to Seller in respect to the terminated part of this Order except as herein provided. Purchaser's rights as set forth herein shall be in addition to Purchaser's other rights in case of Seller's default, whether set forth in this Order or not.

(e) Seller shall not be liable for damages resulting from default due to causes beyond Seller's control and without Seller's fault and negligence, provided, however, that if Seller's default is caused by the default of a subcontractor or supplier, such default must arise out of causes beyond the control of both Seller and subcontractor or supplier, and without the fault or negligence of either of them and provided further, the goods and/ or services to be furnished by the subcontractor or supplier were not obtainable from other sources.

11. **Changes and Suspension.** Purchaser, by written notice to Seller at any time before complete delivery is made under this Order, may (1) make changes in any one or more of the following: drawings, designs or specifications; quantity; delivery; or method of shipment or (2) direct Seller to suspend, in whole or in part, delivery of goods or performance of services hereunder for such period of time as Purchaser determines to be necessary or desirable. If any such change or suspension causes a material change in the cost of, or time required to perform, any part of the work under this Order, an equitable adjustment shall be made in the Order price or delivery schedule, or both, provided Seller notifies Purchaser in writing of any claim for such adjustment within twenty (20) days from the date of Purchaser's notice to Seller. No such adjustment will be allowed unless authorized by Purchaser in writing. Seller shall proceed with the work as changed without interruption and without awaiting settlement of any such claim.

12. **Termination for Convenience.** Purchaser may terminate performance under this Order in whole, or in part, by delivery to Seller of a Notice of Termination specifying the extent to which performance under the Order is terminated, and the date upon which such termination becomes effective. Upon receipt of such Notice, Seller shall: (a) stop work under the Order as specified in the Notice of Termination; (b) place no further orders or subcontracts and incur no further costs or expenses for materials, services, or facilities except as necessary for completion of such portion of the work under the Order that is not terminated; (c) terminate all orders and subcontracts to the extent they relate to performance of work terminated by the Notice of Termination; (d) settle all outstanding liabilities and claims arising out of Seller's termination of orders and subcontracts, with the approval or ratification of Purchaser, to the extent Purchaser may require; (e) transfer title to Purchaser and deliver in the manner, to the extent, and at the times directed by Purchaser: the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination; and the completed or partially completed plans, drawings, information, and other property which, if the Order had been completed, would have been required to be furnished to Purchaser; (f) complete performance of any part of the work not subject to the Notice of Termination; and (g) act as necessary, or as Purchaser may direct, to protect and preserve the property related to this Order in Seller's possession in which Purchaser has an interest.

13. **Payment for Goods.** Purchaser shall pay the price for the goods stated on the face page of this Order. Invoices submitted hereunder shall be Net 30 days and paid within thirty (30) days after receipt of invoices or acceptance of delivered items by Purchaser, whichever occurs later, unless otherwise specified on the face of this Order. Payment shall not constitute final acceptance. Purchaser may make any adjustments in Seller's invoices due to shortages, late delivery, rejections, or other failure to comply with the requirements of this Order before payment. Purchaser may offset against any payment hereunder any amount owed to Purchaser by Seller. Payment shall not constitute final acceptance.

14. **Sales and Similar Taxes.** Unless otherwise provided in this Order, the prices set forth herein include all applicable Federal, State and local taxes and duties.

15. **Indemnification.** Seller shall indemnify and hold Purchaser harmless from any and all liability for injury to persons or property to the extent caused by the negligence or willful misconduct of Seller, its lower-tier subcontractors, agents, or employees, including any and all reasonable expense, legal or otherwise, incurred by Purchaser in the defense of any claim or suit arising out of the work done under this Order.

Seller shall indemnify and hold Purchaser harmless from any and all liability for any tax, including but not limited to sales, use, or value-added tax, arising out of or relating to Seller's delivery of goods or services to Purchaser, or Seller's performance of this Order.

Purchaser shall promptly notify Seller of any claim against Purchaser for such taxes. The provisions of this paragraph shall continue in effect upon completion or termination of this Order.

Seller shall indemnify, defend, and hold Purchaser harmless from any and all liability for any suit or proceeding which may be brought against Purchaser or its agents, customers, or other vendors for any alleged patent infringement or unfair competition resulting from similarity in design, trademark or appearance of goods or services furnished hereunder, and shall hold Purchaser harmless from any and all expenses, losses, royalties, profits and damages, including court costs and reasonable attorney's fees resulting from any such suit or proceeding, including any settlement. Purchaser may be represented by and actively participate through its own counsel in any such suit or proceeding if it so desires, and the costs of such representation shall be paid by Seller.

16. **Entire Agreement.** This Order, including these terms and conditions shall constitute the entire agreement between the parties hereto, superseding any and all prior oral and written expressions between the parties. Any modifications hereto must be agreed to in a writing signed by the parties hereto.

17. **Applicable Law.** This Agreement shall be governed by California law applicable to contracts between residents of California.

18. **Assignments.** This Order shall not be assigned by Seller without Purchaser's prior written consent.

19. **Non-Waiver of Rights.** The failure of Purchaser to insist upon strict performance of any of the terms and conditions in this Order or to exercise any rights or remedies, shall not be construed as a waiver of its rights to assert any of same or to rely on any such terms or conditions at any time thereafter. The invalidity in whole or in part of any term or condition of this Order shall not affect the validity of other parts hereof.

20. **Attorneys' Fees.** In the event any action is brought by any party hereto to enforce the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to all other relief to which that party may be entitled.

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21. **Severability.** If any provision hereof shall be found to be inoperable or in violation of any law or regulation, only that provision shall be stricken from this Order and the remainder of the Order shall not be affected.

22. **Compliance with Laws.** Seller agrees to comply with the applicable provisions of any federal, state, or local law or ordinance, and all orders, rules, and regulations issued thereunder, including 41 CFR §§ 60- 1.4; 60-250.4; and 60-741.4 with respect to affirmative action program and plan requirements, and Federal Acquisition Regulations (FAR) 52.219-8; 52.222-26; 52.222-35; 52.222-36; 52.222-39; and 52.247-64 (incorporated herein by this reference).

23. **Environmental, Health, and Safety Compliance.** Seller represents and warrants that goods it supplies or delivers under this agreement shall comply with all applicable national and international environmental, health, safety and product safety laws, regulations, treaties, or other legal requirements relating to the manufacture, distribution, use and sale of the goods, including those requirements relating to the presence or use of chemicals or other materials in products. Seller agrees to enable Purchaser to ensure its own compliance with product safety laws, and to confirm compliance with this provision. Seller also agrees to indemnify Purchaser against any loss, expense and penalty incurred by Purchaser as the result of Seller's failure to comply with this provision.

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