

SYSTRON DONNER INERTIAL
General Terms and Conditions Of Sale

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Clause 1 – Definitions

As used herein: "Seller" means Systron Donner Inertial, 355 Lennon Lane, Walnut Creek, California 94598. "Buyer" means the party purchasing Product(s) from the Seller. "Product" means all articles, materials, work or services offered by the Seller and described in the accompanying quotation, acknowledgement, invoice, or other Seller form. "Order" means any purchase Order or contract issued by the Buyer for Products provided by the Seller.

Clause 2 – Acceptance

The quotation and any resulting Order shall be the exclusive agreement between the parties for the Product, subject to the terms and conditions herein. Any of the following constitute Buyer's unqualified acceptance of the terms and conditions:

- (a) issuance or assignment of an Order for the Product;
- (b) acceptance of any Products under the Order; or
- (c) payment for any or all of the Products under the Order

Additional or different terms or conditions proposed by the Buyer shall be void and of no effect unless accepted in writing by the Seller's

Authorized Representative. No change in, modification of, or revision to these terms and conditions shall be valid unless in writing and signed by an authorized representative of Seller.

Clause 3 – Warranty

Seller warrants that the Products will be free from defects in material and workmanship and conform in all material respects to their applicable specifications for a period of one (1) year from the date of delivery ("Warranty Period"), when operated under normal conditions and in accordance with their applicable specifications. For any breach of this warranty, Seller will, at it's option and expense and as it's sole obligation, and as Buyer's exclusive remedy, repair, replace, credit, or refund any defective Product returned to Seller during the Warranty Period, provided that an examination by Seller discloses to Seller's reasonable satisfaction that a defect is covered by this warranty. This warranty does not apply to any Products that have been:

- (a) subject to misuse, neglect, or abuse,
- (b) improperly installed or maintained, or
- (c) repaired or altered by anyone other than Seller.

The warranty period for Products repaired or replaced under this warranty shall be limited to the components repaired or replaced and shall run for a period of one hundred and eighty (180) days from the date of delivery or the balance of the original one (1) year Warranty Period (excluding the time the Products were out of service and in Seller's plant), whichever is longer. EXCEPT AS STATED IN THIS SECTION, SELLER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, OR THIRD PARTY RIGHTS.

Clause 4 – Limitation of Liabilities

In no event shall Seller be liable to Buyer or any third party for consequential, indirect, punitive, special, or incidental damages (including but not limited to loss of profits) arising from or relating to the sale, delivery or use of the Products. Seller's total cumulative liability under this Agreement to Buyer or any third party (including indemnity obligations), whether in contract or tort or otherwise, will not exceed the amount paid by Buyer to Seller for the Product sold hereunder giving rise to such liability.

Clause 5 – Delivery and Payment Terms

Incoterms 2000 FCA, Walnut Creek, California, either freight collect, on the Buyer's account or prepaid by the Buyer. Delivery times are set forth in the Seller's applicable quotation or acknowledgment. ARO time periods commence only upon receipt of Order at Seller's facilities. All sales are net thirty (30) days from the date of invoice, unless Seller in its sole discretion requires payment in advance or upon delivery. Payment shall be made in United States currency in accordance with specific instructions contained in the invoice. Late payments will accrue interest on the outstanding balance at the rate of 1.5% per month or the maximum rate allowed by law, whichever is less.

Clause 6 – Security Interest

Seller shall retain a security interest in the goods (and/or replacements) delivered hereunder and in the proceeds from the sale or disposition thereof, until Buyer has made payment in full for such goods. Buyer shall, upon request by Seller, execute all documents (such as California's UCC-1 Financing Statement) necessary to perfect such security interest. Seller has the right, upon demand, to repossess goods

delivered hereunder if Buyer fails to make timely payment.

Clause 7 – Taxes

Prices do not include sales or excise tax, VAT, duties or other governmental charges resulting from this transaction or the manufacture, sale, ownership, possession, or use of the Products, all of which must be paid by Buyer. Buyer shall provide Seller a tax exemption certificate acceptable to the taxing authorities.

Clause 8 – Rights in Data

Seller does not extend or offer for sale or license any rights in technical data. Seller retains all intellectual property rights in the Products and any technical data provided to Buyer. No license, express or implied, is granted under these terms and conditions.

Clause 9 – Tooling and Designs

All tooling, molds, fixtures, specifications, drawings, designs, data, information, methods, patterns, descriptions, programs, software, ideas and/or inventions made, used, conceived, developed or acquired by Seller incidental to its performance hereunder and all patent, trade-secret, know-how, copyright or other proprietary rights therein, shall be the exclusive property of Seller and no part of the purchase price hereunder shall be deemed applicable to the foregoing items.

Clause 10 – Delays

Seller shall not be liable for delay in delivery or for failure to manufacture, due to force majeure or causes beyond its reasonable control, including but not limited to acts of God, acts of government, acts of civil or military authority, acts of Buyer, application of US Government priorities, Government delays in granting export licenses, fires, strikes, floods, war, terrorism, riot or civil commotion, delays in transportation, difficulty in obtaining necessary labor or materials. In the event of any such delay, date of delivery shall be extended for a period of time equal to that lost by reason of the delay.

Clause 11 – Shipment

Title to all purchased material and risk of loss therefore is passed from Seller to Buyer at the time of shipment from Seller's facility. Unless otherwise agreed upon in writing, all purchased material will be shipped uninsured. Seller may request partial shipment and invoice therefore.

Clause 12 – Export Compliance

All shipments hereunder shall at all times be subject to the export control laws and regulations of the United States and any amendments therefore. Buyer agrees that it shall not make any disposition of U.S. origin Products purchased from Seller, by way of transshipment, re-export, diversion or otherwise, other than in and to the ultimate country of destination specified on Buyer's order or declared as the country of ultimate destination on Seller's invoices, except as said laws and regulations may expressly permit.

Buyer shall indemnify and hold Seller harmless from and against any liability claims, demands or expenses (including attorneys or other professional fees) arising from or relating to Buyer's noncompliance with U.S. export laws.

Buyer shall be responsible for all losses, costs, claims, cause of action, damages, liabilities and expense including and/or settlement and court costs arising from any act or omission of Buyer, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this clause.

Seller, at its sole discretion, may obtain export license(s) or other appropriate export authorization on behalf of the Buyer. If Seller elects to obtain such export authorization on behalf of the Buyer it may be based upon Buyer using a freight forwarder designated by the Seller and/or additional mutually agreeable fees for obtaining such authorization. Buyer agrees to provide to Seller the necessary end-user statements and other required information for the license application. Seller shall not be liable if any government authorization is delayed, denied, revoked, restricted or not renewed. Buyer's sole and exclusive remedy if an export authorization is delayed, denied, revoked, restricted or not renewed shall be a refund of any payments which Buyer has made for the Products.

Clause 13 – Excluded Parties

Buyer shall immediately notify Seller if it is or becomes listed on any Excluded or Denied Party List of an agency of the U.S. Government or its export privileges are denied, suspended or revoked.

Clause 14 – Inspection and Acceptance

Items that are subject to customer source inspection shall be limited to the review of final

test data on a non-interference basis. Products delivered to Buyer will be deemed finally inspected and accepted by Buyer, unless Buyer provides Seller a written notice of rejection within five (5) days after the date of delivery.

Clause 15 – Changes

Buyer may at any time by a written Order, make changes within the general scope of the Order, in any one or more of the following:

- (a) drawings, designs or specifications, where the supplies to be furnished are to be specially manufactured for the Buyer in accordance therewith,
- (b) method of shipment or packaging,
- (c) place or time of delivery, and
- (d) property to be furnished by Buyer.

If any such change causes an increase or decrease in the cost and or the time required for the performance of the order, an equitable adjustment shall be made in the price or delivery schedule, or both, and the Order shall be modified in writing accordingly. Any claim by the Seller for adjustment under this article will be made in writing within thirty (30) days from the date the Seller becomes aware of the change.

Claims for price adjustment based on quantity discounts in lieu of costs shall not be denied when such claims are for Products which have been sold as commercial items or which are based on off-the-shelf commercial items. If Buyer requests large quantity pricing and initially orders below the quantity, Buyer will then purchase the smaller quantity at the pricing specified for the smaller quantity, and the Order shall be modified in writing accordingly.

Clause 16 – Patent Indemnity

Seller will defend and settle claims against Buyer brought by a third party (not an affiliate of Buyer) based on the infringement by a Product of a U.S. patent issued as of the date of delivery of such Product, so long as Buyer:

- (a) notifies Seller within ten (10) days after it receives notice of such claim,
- (b) cooperates with and provides reasonable assistance to Seller in the defense of such claim, and
- (c) gives Seller sole control of the defense and related settlement discussions.

Seller will not be obliged to indemnify Buyer if an infringement claim is based upon any use of a Product with other components not supplied by

Seller or modification of Product by any person other than Seller.

THIS SECTION SETS FORTH SELLER'S ENTIRE LIABILITY AND BUYER'S SOLE AND EXCLUSIVE REMEDY FOR ALL THIRD-PARTY CLAIMS AND ACTIONS.

Clause 17 – Partial Invalidity

If any provision of this Order is or becomes void or unenforceable by force or operation of law, all other provisions shall remain valid or enforceable.

Clause 18 – Governing Terms

All purchases of Products by Buyer from Seller will be governed exclusively by these terms and conditions. Any conflicting terms contained in a discussion or another document (such as a Purchase Order) shall not apply unless it is mutually agreed to and confirmed in writing. For convenience, Buyer may confirm or submit Orders using Buyer's standard form agreements. However, the terms in such standard form agreements shall not apply. If these terms and conditions are provided with any quote, proposal, or other offer to sell by Seller, Buyer's acceptance of such offer is hereby expressly limited to these terms and conditions. Seller objects to any additional or differing terms contained in any acceptance of such offers. Issuance of an Order for any product or acceptance or payment of any Product by Buyer constitutes Buyer's unqualified acceptance of these terms and conditions. If these terms and conditions are provided with an acknowledgement or other forms of acceptance to an offer by Buyer to buy any Products, acceptance by Seller of Buyer's offer to buy any Products is expressly made conditional on Buyer's assent to these terms and conditions.

Clause 19 – Government Contracts

If any purchase order indicates that the purchase is being made for use under a US Government Contract, any terms and conditions of such Government contract which are intended to be included herein must be set forth in a separate written document signed by the appropriate authority of Seller in order to be binding. Only those terms and conditions which Seller agrees to in writing and are made mandatory by federal statute or regulation for inclusion in fixed price supply contracts and subcontracts covering standard commercial proprietary items sold to the public at commercial prices shall apply.

Clause 20 – Government Restricted Rights

The Products if software are "commercial items," as that term is defined at 48 C.F.R. 2.101 (Oct 1995), consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212 (Sep 1995) and is provided to the U.S. Government only as a commercial end item.

Any technical data provided with any Product is commercial technical data as defined in 48 C.F.R. 12.211 (Sep 1995). Consistent with 48 C.F.R. 12.211 through 12.212, 48 C.F.R. 227.7202-1 through 227.7202-4 (Jun 1995), and 48 C.F.R. 252.227-7015 (Nov 1995), all US Government End Users acquire the Products with only those rights set forth herein.

Clause 21 – Governing Law and Venue

These terms will be governed by and construed under California law, without regard to the state's conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods will not apply. Any legal action or proceeding relating to these terms and conditions or the sale or delivery of any Product under these terms and conditions must be brought in any state or federal court located in the County of San Francisco, California.

Clause 22 – Arbitration

Any controversy or claim arising out of, in connection with, or relating to the agreement hereunder shall be resolved by binding arbitration in San Francisco, California, pursuant to the rules then pertaining of the American Arbitration Association.

Clause 23 – Federal Contract Provisions

If this Order is subject to Federal Contract Provisions as may be required by law, Seller will accept the inclusion of those provisions, but only to the extent that the clauses are required, as demonstrated by the Buyer's representative and as confirmed by the Seller's authorized representative.

Clause 24 – General

All waivers must be in writing. Any waiver or failure to enforce any of these terms and conditions on one occasion will not be deemed a waiver of any of the other terms and conditions on any other occasion. These terms and conditions constitute the entire agreement between the parties regarding the subject matter hereof and supersedes all prior or simultaneous

agreements, understandings, and communication, whether written or oral.

Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this Purchase or the subject matter hereof, shall be made by Buyer without the prior written approval of Seller's Authorized Representative.

Buyer shall not publish, distribute, or use any information developed under or about the existence of this Purchase, or use the Systron Donner Inertial name (or the name of any division, affiliate, or subsidiary thereof), logo, trademark, service mark, or trade dress for the purpose of advertising, making a news release, creating a business reference, creating a website content or for products or service endorsement without prior written approval of Seller.

Clause 25 – Information of Seller

Seller shall not provide any proprietary information to Buyer without prior execution of a Proprietary Information Agreement by the parties. Information provided to Buyer by Seller shall remain the property of Seller. Buyer agrees to comply with the terms of any Proprietary Information Agreement with Seller or third party Agreement which includes Seller's Proprietary information, to comply with all proprietary information markings and restrictive legends applied by Seller to anything provided hereunder to Buyer.

Clause 26– Termination For Convenience

Any resulting Purchase Order may not be cancelled or modified to change quantity or period of performance within ninety (90) days of Seller's acknowledgement. After this period, the following will apply:

- (a) For specially performed Work:
 - I. Buyer may terminate part or all, of this Purchase for it's convenience by giving written notice to Seller, and such termination shall not constitute default.
 - II. Upon termination, in accordance with Buyer's written direction, Seller will immediately:
 - (i) Cease Work,
 - (ii) Prepare and submit to Buyer an itemized list of all completed deliverables and services including

- material costs for manufactured parts plus reasonable profit,
- (iii) Deliver to Buyer deliverables satisfactorily completed up to the date of termination at the agreed upon prices in the relevant Purchase Order, and
- (iv) Deliver upon request any Work in process. In the event Buyer terminates for it's convenience after performance has commenced, Buyer will compensate Seller for the actual, allowable, and reasonable expenses incurred by Seller for work in process up to and including the date of termination provided Seller uses reasonable efforts to mitigate Buyer's liability under this clause. In addition to finished goods, Buyer shall be liable for any inventory of materials and/or any costs directly or indirectly associated with the order or the cancellation.

- (b) For anything other than specially performed Work:

Buyer may terminate part or all of this Contract for it's convenience by giving written notice to Seller and Buyer's only obligation to Seller shall be either payment of Seller's standard restocking or service charge or a mutually agreed-upon restocking or service charge.
- (c) In either instance where Buyer terminates for convenience prior to completion of the entire Purchase Order, Buyer will compensate Seller for the difference in unit pricing for a smaller quantity ordered.
- (d) In any case, Seller shall continue all Work not terminated.

Additional or differing Terms and/or Conditions proposed by Buyer or included in Buyer's Purchase Order, are hereby objected to by SDI and have no effect unless expressly accepted in writing by SDI. By placing your order Buyer Accepts this provision along with SDI's Standard Terms and Conditions of Sale.