

SEIP Purchase Order Terms and Conditions

1. General
 - 1.1. Acceptance of this order is expressly limited to the terms and conditions of this order, and shall not be modified or supplemented except in writing by an authorized representative of Buyer
 - 1.2. Reference in this order to seller's proposal or quotation are only to describe the goods or services covered hereby, and do not constitute an acceptance of any terms set forth therein.
 - 1.3. Seller's written or electronic confirmation of this order, or shipment of any goods or commencement of services hereunder, shall constitute acceptance of this order.
 - 1.4. Invoice price shall not exceed the price established on the face of this order. Suppliers are subject to the Sumitomo Electric Group Supplier Code of Conduct, located at <https://seipusa.com/suppliers>.
2. Performance
 - 2.1. Time and warranty are of the essence for this order. Unless otherwise specified, delivery times are the times of delivery of the goods at Buyer's designated place of delivery or destination.
 - 2.2. Seller shall at all times act in its own capacity and right as an independent contractor, and nothing contained herein shall be construed to make Seller an agent or partner of Buyer. All employees furnished by Seller shall be employees of Seller, and Seller will pay wages and expenses of such employees and all taxes and fees relating to the employment of such personnel by Seller.
3. Indemnification
 - 3.1. Seller shall indemnify and hold harmless Buyer for, from, and against any and all claims, actions, damages, losses, liability costs, and expenses incurred by Buyer as a result of (i) any breach of the covenants, agreements, representations, or warranties of Seller contained herein, or (ii) any other act of omission on the part of the Seller and/or any person or entity acting on behalf of Buyer (including Seller's subcontractors). Seller shall defend any and all claims or suits at Seller's expense. Buyer at its option shall have the right to participate in the defense of any such claim or suit without relieving Seller of any obligations hereunder.
4. Insurance
 - 4.1. Seller and its subcontractors shall maintain public liability and property damage insurance at a minimum, in accordance with industry standards sufficient to cover the obligations set forth herein and shall maintain proper workers compensation insurance covering all employees performing within the scope of this purchase order. Seller shall provide a certificate of insurance upon request.
5. Seller Representations/Warranties
 - 5.1. Seller represents and warrants that goods and services furnished shall be of the highest grade and quality, of good workmanship and free of any defect and shall conform to the specifications, quality requirements, drawings, samples, or other data or descriptions furnished or adopted by Buyer. Seller hereby assigns to Buyer all rights of Seller to any representation or warranties of the subcontractors of Seller or the manufacturer of the goods covered hereby.
 - 5.2. Seller shall be fully responsible for all work and service performed by any subcontractor. At Buyer's option, any part of the material or work not complying with the requirements expressed or implied by be returned, at Seller's risk and expense including transportation both ways, for prompt correction of defects.
 - 5.3. Seller represents and warrants that the goods and services furnished are fully merchantable and fit for their intended or particular purposes. All goods and services are subject to final inspection by Buyer, and payment shall not constitute acceptance.
 - 5.4. Buyer reserves the right to enter Seller's or Seller's subcontractor's manufacturing facility for the purpose of accepting or auditing. This right shall be extended to Buyer's customers and regulatory authorities.
 - 5.5. Seller represents and warrants that no law, rule, ordinance, of the United States, state or any other governmental, authority or agency has been violated in the manufacture or sale of the goods, or performance of the services covered by this order.

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- 5.6. Seller represents and warrants that (i) the goods provided hereunder are new and do not contain anything used or reconditioned, (ii) the goods and services provided hereunder to not infringe any patent, trademark, copyright, trade secret or other intellectual property right of any third party and (iii) Seller shall notify Buyer immediately upon discovery that nonconforming product has been shipped to Buyer.
- 5.7. Seller shall notify Buyer in writing prior to implementation of any change in design or manufacturing process that may affect form, fit, function, quality, or reliability. Notification shall be made at least (60) sixty days prior to the effective date of change.
6. **Ownership and Confidentiality**
 - 6.1. Any specifications, materials, tooling, or information furnished, provided on behalf of, or paid for by Buyer, shall be (i) kept confidential, (ii) remain or become Buyer's property, (iii) be used by Seller exclusively for Buyer's orders, (iv) be clearly marked as Buyer's property and segregated when not in use, (v) be kept in good working condition at Seller's expense, and (vi) be shipped to Buyer promptly on demand. Seller shall insure Buyer's property and be liable for loss or damage while in Seller's possession or control, ordinary wear and tear excepted.
 - 6.2. Information or items prepared by Seller specifically in connection with performance of this order is considered "works made for hire" under U.S. Copyright Law. Buyer shall be deemed the owner and author of such works. Seller agrees to execute such further documents and do such further acts as may be necessary to perfect, register, or enforce Buyer's rights in and to such works.
7. **Attorney Fees**
 - 7.1. If either party commences an action against the other party in connection with the subject matter hereof, the prevailing party in such action shall be entitled to recover its attorney's fees and expenses from the other party.
8. **Governing Law/Dispute Resolution**
 - 8.1. This agreement shall be deemed made in the State of California and shall be construed and interpreted solely in accordance with the laws of such state. The parties hereby submit to the jurisdiction of the state and federal courts located in San Diego County, California.
 - 8.2. Any dispute or controversy arising out of or relating to this order or any breach hereof, or the termination of any service provided pursuant to this order shall be settled by binding arbitration in accordance with Rules of the American Arbitration Association in the State of California, subject to laws of that State. Judgement upon any award may be entered in any court having jurisdiction. Should the foregoing arbitration agreement be unenforceable for any reason, the parties hereby waive their respective right to trial by jury with respect to any cause of action, claim, counterclaim in any action, proceeding, and/or hearing.
9. **Assignment and Set-Off**
 - 9.1. Seller will not assign this agreement or any rights hereunder, or subcontract any of its duties hereunder, without Buyer's written consent. Any unauthorized assignments are void. All claims for monies due or to become due from Buyer shall be subject to deduction by Buyer for any set off or counterclaim arising out of this or any other Buyer's purchase orders with Seller.
10. **Limitation of Liability**
 - 10.1. To the extent permitted by applicable law, in no event will Buyer (including Buyer's officers, directors, and employees) be liable for any lost revenues, lost profits, incidental, indirect, consequential, special, or punitive damages.
 - 10.2. Buyer will not be liable for finished work, work in progress, or raw materials fabricated or procured by Seller unnecessarily in advance or in excess of Buyer delivery requirements.
11. **Termination**
 - 11.1. Buyer may at any time cancel this agreement in whole or in part by written notice, whereupon Seller shall terminate work pursuant to the terms of such notice and without further liability of Buyer.

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- 11.2. Buyer must acknowledge in writing all not cancelable, not returnable material at the time of order placement. If such goods ordered cannot be sold to other purchases, Seller shall promptly advise Buyer of the quantities of applicable work and material on hand or purchased prior to termination and the most favorable disposition that Seller can make. Seller shall comply with Buyer's instructions regarding disposition of such work and material.
- 11.3. Payment for not cancelable, not returnable material shall constitute Buyer's only liability in the event this order is terminated. The provisions of this section shall not apply to termination by Buyer for default of Seller.
12. Quality
- 12.1. Seller shall keep confidential all technical and proprietary information furnished to Seller by Buyer in connection with this order, including blueprints, data, designs, drawings, engineering data for production, product know-how, and any other information furnished to Seller by Buyer in connection with this contract. Seller shall not use such items or information in the design, manufacture, or production of any goods, or for any other purchase or for the manufacture of production of larger quantities than those specified, except with the express consent in writing from the Buyer. Seller, including its agents, employees, and representatives will exercise extreme caution to prevent disclosure of such information to third parties. The obligations of this provision shall survive the completion of performance and expiration or termination of this contract.
- 12.2. Buyer and authorized representatives of Buyer's Customers and / or Regulatory Authorities shall have direct access to all applicable areas of supply chain where work under this P.O. is being performed, to review progress, records and witness testing of the items related to this P.O. Seller shall include this clause in all of Seller's subcontracted Purchase Orders.
- 12.3. Prior to shipment, Seller shall notify Buyer, if a non-conformance condition exists with the product and obtains approval for nonconforming product disposition.
- 12.4. Seller shall prevent the use of any counterfeit parts.
- 12.5. Seller must be able to maintain a quality system that meets or exceeds industry standards and ensures adequate product conformance and appropriate objective evidence to meet usual business responsibilities.
- 12.6. Seller shall notify Buyer of changes in product and / or process, changes of Sellers, changes of manufacturing facility location and, where required, obtain organization approval.
- 12.7. Seller shall flow down to the supply chain the applicable requirements including customer requirements.
- 12.8. Quantity variances and / or partial shipments are not permitted unless prior written authorization is received from the Buyer.
- 12.9. All goods supplied shall be suitably packaged to protect, marked, and shipped in accordance with Buyer instructions. In the absence of instruction, Seller shall contact the Buyer. All supplied goods will be returned to the Seller for inspection if parts are received damaged.
- 12.10. Accelerated delivery is not permitted unless noted in P.O or with prior arrangements/approval of Buyer.
13. Certificate Of Conformance
- 13.1. Seller Certification of Conformance is required for all orders. This will certify that the material / services provided by the seller meet all drawing and / or specifications requirements.
- 13.2. Records supporting this certification shall be on file and shall be provided to Buyer upon request at no cost to Buyer.
- 13.3. All shipments should have a legible and reproducible Certificate of Conformance or Seller's statement of quality will accompany each shipment.
- 13.4. All Certifications must include the following:
- 13.4.1. *Part number*
 - 13.4.2. *Quantity and unit of measure*
 - 13.4.3. *Process being performed*
 - 13.4.4. *Specification*

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- 13.4.5. *Revision number*
- 13.4.6. *Legible printed and signed signature and title of responsible person signing the certification.*
- 14. Material And Special Processing Certifications
 - 14.1. Actual manufacturing material certifications are required for all Seller provided material. All Certifications must be traceable to the original Mill Lot and/or Heat Number/Date Code.
 - 14.2. Processing Certifications are required for all Sellers providing processing. All certifications must indicate that the process has been performed to drawing requirements.
 - 14.3. Parts are subject to rejection without correct documentation.
 - 14.4. All Certifications must include the following:
 - 14.4.1. *Part number*
 - 14.4.2. *Quantity and unit of measure*
 - 14.4.3. *Process being performed*
 - 14.4.4. *Specification*
 - 14.4.5. *Revision number*
 - 14.4.6. *Legible printed and signed signature and title of responsible person signing the certification.*
 - 14.5. Seller shall notify the undersigned prior to shipment if specification has been replaced / superseded / updated. List specification as shown on drawing, and then list the replacement specification with current revision.
- 15. Inspection Records
 - 15.1. Inspection records shall be available upon request for each product shipment received. These records shall include the nature and number of observations and traceable by part number to the material / or services being provided by the Seller.
- 16. Calibration
 - 16.1. Calibration services for Buyer must be performed in accordance with ANSI/NCSL Z540-1 standards and ISO 10012-1 or equivalent. Buyer Purchase Order Number must appear on all certifications. Actual calibration results shall appear on the certificates.
- 17. U.S Government Source Inspection (US GSI)
 - 17.1. Government Source Inspection if required will be performed at Seller's facility prior to shipment. As directed by Buyer, any in process inspection is also mandated by this clause. A minimum of 48-hours' notice to Buyer, prior to inspection, is required when this clause is invoked. Seller shall provide evidence of Government Source Inspection with each shipment.
- 18. Source Inspection
 - 18.1. Items procured under this purchase order are subject to source inspection by Buyer at Seller's Facility prior to shipment. The Seller shall furnish acceptable facilities and equipment necessary to perform the required inspection at no cost to Buyer. Please advise the Buyer within three working days in advance of the subject material being available for source inspection.
- 19. First Article Inspection
 - 19.1. Items procured to a Buyer specification or drawing under this purchase order are subject to First Article Inspection per AS9102.
- 20. Record Retention Requirements
 - 20.1. Seller must retain all records for this order for a minimum of 10 years unless otherwise specified.
- 21. Conflict Minerals & REACH Declarations
 - 21.1. Seller agrees to furnish information to Buyer to support Conflict Minerals & REACH obligations / compliance.
- 22. Personnel Awareness.
 - 22.1. For Items procured to Buyer's specifications or drawings, Seller must ensure that persons are aware of:
 - 22.1.1. *Their contribution to product or service conformity*
 - 22.1.2. *Their contribution to product safety*
 - 22.1.3. *The importance of ethical behavior*