

SANMINA-SCI CORPORATION
TERMS OF SALE

1. **Prices.** Prices are based on the specifications and quoted quantities, and include SANMINA-SCI-designed packaging. Prices exclude export licensing of the Product; payment of broker's fees; taxes duties or similar charges (other than those based on net income of SANMINA-SCI) imposed by any taxing authority upon the manufacture, sale, shipment, storage, "value add" or use of the Product which SANMINA-SCI is obligated to pay or collect; and setup, tooling, or non-recurring engineering activities. Prices shall remain fixed for the term of the Agreement, subject to SANMINA-SCI's right to revise Prices (i) to account for any variations on the market prices of components, parts and raw material (collectively "Components"), including any such variations resulting from shortages and (ii) in the event of a change in the specifications or quantities ordered.

2. **Payment Terms.** Payment terms are net thirty (30) days after date of invoice. On any invoice not paid by maturity date, CUSTOMER shall pay interest from maturity to date of payment at the rate of 1.5% per month.

3. **Orders and Forecasts.**

a. **General.** CUSTOMER shall provide SANMINA-SCI with 90 days' worth of firm purchase orders ("Orders") and a forecast for Product requirements for an additional nine (9) months ("Forecast"). The Orders shall be binding and may be rescheduled only in accordance with this Section. CUSTOMER acknowledges that SANMINA-SCI shall make purchase commitments (including purchase commitments for Long Lead-time Components) to its Component suppliers ("Vendors") based upon the Order and Forecast, and CUSTOMER shall be responsible for all such Components purchased in support of CUSTOMER's then-current Forecast and Orders. For all other purposes, however, the Forecast shall be non-binding.

b. **Long Leadtime Items; Minimum/Multiple Buys.** CUSTOMER acknowledges that SANMINA-SCI often must place orders for Components well in advance of the CUSTOMER's delivery date. At CUSTOMER's request, SANMINA-SCI will provide to CUSTOMER a list of Components with leadtimes in excess of ninety days ("Long Leadtime Components"). CUSTOMER acknowledges that Vendor leadtimes are subject to change, and agrees to be financially responsible for all Long Leadtime Components purchased in accordance with the Vendor's then-current leadtimes. CUSTOMER further acknowledges that SANMINA-SCI will be required to order Components in accordance with the various minimum buy quantities, tape and reel quantities, and multiples of packaging quantities required by the Vendor, and agrees that it shall be financially responsible for all such Components.

c. **A/B/C Stratification.** In addition to ordering to leadtime (as provided in Section 3(b)), CUSTOMER acknowledges that SANMINA-SCI will order Components in quantities sufficient to support up to six months of CUSTOMER's Forecast. SANMINA-SCI will place orders with its vendors for approximately two to three weeks' worth of Class A Components (the approximately 3% of Components which comprise approximately 80% of the bill of materials), three months' worth of Class B Components (the approximately 17% of Components which comprise approximately 17% of the bill of materials) and six months' worth of Class C Components (the approximately 80% of Components which comprise approximately 3% of the bill of materials).

d. **Reschedules.** CUSTOMER may reschedule all or part of a scheduled delivery one time per quarter (for a maximum of two quarters) for a period not to exceed forty-five (45) days. At the end of this forty-five day period, CUSTOMER shall either accept delivery of rescheduled finished units and/or pay SANMINA-SCI's Delivered Component Cost (SANMINA-SCI's quoted cost of Components as stated on the bill of materials plus a materials margin equal to 15%) associated with rescheduled units not yet built.

e. **Excess and Obsolete Components.** Within a reasonable time after the end of each calendar quarter, SANMINA-SCI shall advise CUSTOMER in writing of any excess/obsolete Components in its inventory and the Delivered Cost of such Components. CUSTOMER shall pay for all Components which it agrees are excess/ obsolete. In the event CUSTOMER doesn't feel that a Component is excess/obsolete, it shall only be required to pay for the Component in the event said Component remains excess/obsolete at the end of the following quarter.

f. **Liability.** CUSTOMER acknowledges that it shall be financially liable for all Components ordered in accordance with this Section. CUSTOMER's Component Liability shall be equal to SANMINA-SCI's Delivered Cost of all Components ordered in support of any Order or Forecast, less the actual cost of those Components which are returnable to Vendor (less any cancellation or restocking charges). SANMINA-SCI shall use commercially reasonable efforts to minimize CUSTOMER'S Component Liability by attempting to return Components to the Vendor; provided, however, that

SANMINA-SCI shall not be obligated to attempt to return to Vendor Components which are, in the aggregate (e.g., per line item), worth less than \$1,000.

4. Delivery/Acceptance. All Product shipments shall be F.O.B. SANMINA-SCI's facility of manufacture and freight collect; title to and risk of loss or damage to the Product shall pass to CUSTOMER upon SANMINA-SCI's tender of the Product to CUSTOMER's carrier. Acceptance of the Product shall occur no later than fifteen (15) days after shipment, and shall be based solely on whether the Product passes a mutually agreeable Acceptance Test Procedure or Inspection designed to demonstrate compliance with the Specifications. Product cannot be rejected based on criteria that were unknown to SANMINA-SCI or based on test procedures that SANMINA-SCI does not conduct. Product shall be deemed accepted if not rejected within this fifteen-day period.

5. Warranty. SANMINA-SCI's warranty period is for one year from date of manufacture and is limited to correction of defects in SANMINA-SCI workmanship. SANMINA-SCI shall, at its option and at its expense, repair, replace or issue a credit for product found defective during the warranty period. In addition, SANMINA-SCI will pass on to BUYER all manufacturers' Component warranties to the extent that they are transferable, but will not independently warrant any Components. All warranty returns shall be done in accordance with SANMINA-SCI's authorized returned material policy. SANMINA-SCI's warranty does not include products that have defects or failures resulting from CUSTOMER's design of the Products; accident, disaster, neglect, abuse, misuse, improper handling; alterations, modifications or repairs by CUSTOMER or third parties; or defective CUSTOMER-provided test equipment or test software. CUSTOMER bears all design responsibility for the Product. THE SOLE REMEDY UNDER THIS WARRANTY SHALL BE THE REPAIR, REPLACEMENT OR CREDIT FOR DEFECTIVE PARTS AS STATED ABOVE. THIS WARRANTY IS IN LIEU OF ANY OTHER WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.

6. Termination. In the event an Order is cancelled or this Agreement is terminated for any reason (including a breach by SANMINA-SCI or a Force Majeure Event), CUSTOMER shall pay SANMINA-SCI, termination charges (collectively, the "Termination Charges") equal to (1) the contract price for all finished product existing at the time of termination; (2) SANMINA-SCI's cost for all work in process; and (3) SANMINA-SCI's Delivered Cost of Components ordered in support of CUSTOMER's Orders or Forecast, as further described in Section 3(f).

7. Indemnification. Each party will indemnify the other party for all claims resulting from such party's breach of this Agreement or negligence. In addition, SANMINA-SCI will indemnify CUSTOMER against any losses (as adjudicated by a court of law) in connection with any third party infringement claim based on SANMINA-SCI's manufacturing process; CUSTOMER will indemnify SANMINA-SCI against any any losses incurred in connection with any third party infringement claim based on anything other than the manufacturing process (including but not limited to the design).

8. Limitation of Liability. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES, OR ANY DAMAGES WHATSOEVER RESULTING FROM LOSS OF USE, DATA OR PROFITS, EVEN IF SUCH OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATION SET FORTH IN THIS SECTION SHALL APPLY WHERE THE DAMAGES ARISE OUT OF OR RELATE TO THIS AGREEMENT. For the purpose of this Section, both lost profits and damages resulting from value added to the Product by CUSTOMER shall be considered consequential damages, but amounts required to be paid to a third party as a royalty or license fee shall not be considered consequential damages. IN NO EVENT SHALL SANMINA-SCI'S LIABILITY UNDER THIS AGREEMENT FOR ANY PRODUCT (WHETHER ASSERTED AS A TORT CLAIM OR CONTRACT CLAIM) EXCEED THE AMOUNTS PAID TO SANMINA-SCI FOR SUCH PRODUCT HEREUNDER. IN NO EVENT WILL SANMINA-SCI BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS BY CUSTOMER. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

9. Other. Any changes to the Product or specifications shall be done through SANMINA-SCI's standard ECO process. Each party will agree to maintain the confidentiality of the other party's confidential information. This Agreement shall be governed in accordance with the laws of California, and the state or federal courts in Santa Clara County, California shall have exclusive jurisdiction over this Agreement.

10. Additional Terms: The terms set forth in Attachment A shall apply to the Sale of all products to the extent such terms are not expressly contradicted by Sections 1-9 above.

Attachment A

1. **Terms.** Payment terms are net thirty (30) days after date of invoice. On any invoice not paid by maturity date, BUYER shall pay interest from maturity to date of payment at the rate of 1.5% per month. On any invoice not paid by maturity date, BUYER shall pay interest from maturity to date of payment at the rate of 1.5% per month. SANMINA-SCI shall be entitled at all times to set-off any amount owing from SANMINA-SCI or its Affiliates to BUYER or its Affiliates against any amount payable to SANMINA-SCI or its Affiliates or its Affiliates, arising out of this or any other transaction. For purposes hereof, a party's "Affiliate" shall mean any entity that, directly or through one or more intermediaries, controls, is controlled by or is under common control by such party, including but not limited to a party's subsidiaries.
2. **Security Interest.** SANMINA-SCI reserves a purchase money security interest in product sold to BUYER and the proceeds thereof, in the amount of the purchase price. In the event of default by BUYER in any of its obligations to SANMINA-SCI, SANMINA-SCI will have the right to repossess the product sold hereunder without liability to BUYER. SANMINA-SCI may file a copy of the invoice with appropriated authorities at any time as a financing statement and/or chattel mortgage to perfect its security interest. At SANMINA-SCI's request, BUYER will execute financing statements and other instruments that SANMINA-SCI may request to perfect SANMINA-SCI's security interest.
3. **Delivery and Acceptance.** All product shipments shall be F.O.B. SANMINA-SCI's facility of manufacture and shall be to destinations in the country of manufacture. In the absence of specific shipping instructions from BUYER, SANMINA-SCI will ship by the method it deems most advantageous. Transportation charges will be collected on delivery or, if prepaid, will be subsequently invoiced to BUYER. Unless otherwise indicated, BUYER is obligated to obtain insurance against damage to the product being shipped. Unless otherwise specified, the product will be shipped in standard commercial packaging. When special or export packaging is requested or, in the opinion of SANMINA-SCI required under the circumstances, any additional costs, if not set forth on the invoice will be separately invoiced. Title to and risk of loss or damage to the product shall pass to BUYER upon SANMINA-SCI's tender of the product to BUYER's carrier. SANMINA-SCI shall use reasonable efforts to notify BUYER of any anticipated delays; provided, however that SANMINA-SCI will not be liable for any loss, damages or penalty resulting from delay in delivery when such delay is due to causes beyond the reasonable control of SANMINA-SCI (including but not limited to a Force Majeure Event). In any such event, the delivery date will be deemed extended for a period equal to the delay. Acceptance of the product shall occur no later than fifteen days after shipment; product not rejected during this fifteen-day period shall be deemed accepted, and all returns shall be handled in accordance with Section 7 (Warranty). Product cannot be rejected based on criteria that were unknown to SANMINA-SCI or based on test procedures that SANMINA-SCI does not conduct.
4. **Changes.** BUYER may upon sufficient notice make changes to the product, including but not limited to changes in (1) drawings, plans, designs, procedures, specifications, test specifications or BOM, (2) methods of packaging and shipment, or (3) delivery schedule (in accordance with Section 8). All changes other than changes in delivery dates shall be requested pursuant to an Engineering Change Notice ("ECN") and, if accepted by BUYER, finalized in an Engineering Change Order ("ECO"). If any such change causes either an increase or decrease in SANMINA-SCI's cost or the time required for performance of any part of the work under this Agreement (whether changed or not changed by any ECO) the prices and/or delivery schedules shall be adjusted in a manner which would adequately compensate SANMINA-SCI for such change. SANMINA-SCI reserves the right to charge an administrative fee for all ECN's in an amount not to exceed \$1,000 per ECN.
5. **Proprietary Information; No License.** SANMINA-SCI retains for itself all proprietary rights in and to all SANMINA-SCI designs, manufacturing processes, engineering details, and other data pertaining to any product sold except where rights are assigned under written agreement by a corporate officer of SANMINA-SCI. The products are offered for sale and are sold by SANMINA-SCI subject in every case to the condition that such sale does not convey and license, expressly or by implication, estopped or otherwise, under any patent claim or process or manufacturing technology otherwise used to manufacture the products with respect to which SANMINA-SCI can grant licenses covering complete equipment or any assembly, circuit combination, method or process in which any such products are used as components. SANMINA-SCI expressly reserves all its rights under such patent claims.
6. **Warranty.** SANMINA-SCI's warranty period is for one year from date of manufacture and is limited to correction of defects in SANMINA-SCI workmanship. For the purpose of this Section, "workmanship" shall mean manufacture in accordance with (i) the most recent version of IPC-A-600 or IPC-A-610 or (ii) the BUYER's workmanship standards set forth in the specifications and approved by SANMINA-SCI. SANMINA-SCI shall, at its option and at its expense, repair, replace or issue a credit for product found defective during the warranty period. In addition, SANMINA-SCI will pass on to BUYER all manufacturers' Material warranties to the extent that they are transferable, but will not independently warrant any Material. All warranty returns shall be done in accordance with SANMINA-SCI's authorized returned material (ARM) policy, a copy of which is available upon request. Any repaired or replaced product shall be warranted as set forth in this section for a period equal to the greater of (i) the balance of the applicable warranty period relating to such product or (ii) sixty (60) days after it is received by BUYER. SANMINA-SCI's warranty does not include products that have defects or failures resulting from (a) BUYER's design of products including, but not limited to, design functionality failures, specification inadequacies, failures relating to the functioning of products in the manner for the intended purpose or in the specific BUYER's environment; (b) accident, disaster, neglect, abuse, misuse, improper handling, testing, storage or installation including improper handling in accordance with static sensitive electronic device handling requirements; (c) alterations, modifications or repairs by BUYER or third parties or (d) defective BUYER-provided test equipment or test software. BUYER bears all design responsibility for the Product. THE SOLE REMEDY UNDER THIS WARRANTY SHALL BE THE REPAIR, REPLACEMENT OR CREDIT FOR DEFECTIVE PARTS AS STATED ABOVE. THIS WARRANTY IS IN LIEU OF ANY OTHER WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING MERCHANTABILITY, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.
7. **Cancellations/Reschedule.** No cancellations or reschedules are permitted within forty-five (45) days of the scheduled delivery date. BUYER may reschedule all or part of a scheduled delivery once for a period not to exceed forty-five (45) days in accordance with the following schedule: (i) upon notice given between 45-75 days prior to the scheduled delivery date, BUYER may reschedule up to fifteen percent (15%) of any scheduled delivery; (ii) upon notice given between 76-120 days prior to the scheduled delivery date, BUYER may reschedule up to thirty percent (30%) of any scheduled delivery; and (iii) upon notice given more than 120 days prior to the scheduled delivery date, BUYER may reschedule one hundred percent (100%) of any scheduled delivery. At the end of the forty-five day period described in the preceding sentence, BUYER shall either accept delivery of the rescheduled finished units or pay SANMINA-SCI's Termination Charges set forth in Section 9.
8. **Termination.**
 - A. Either party may terminate this order for default if the other party materially breaches this agreement; provided, however, no right of default shall accrue until thirty (30) days after the defaulting party is notified in writing of the material breach and has failed to cure the breach or give adequate assurances of performance within such 30-day period. Notwithstanding the foregoing, there shall be no cure period for payment-related defaults. In addition, this agreement shall immediately terminate should either party (a) become insolvent; (b) enter into or file a petition, arraignment or proceeding seeking on order for relief under the bankruptcy laws of its respective jurisdiction; (c) enter into a receivership of any of its assets or (d) enter into a dissolution or liquidation of its assets or an assignment for the benefit of its creditors.
 - B. In the event an order is terminated for any reason (including a breach by SANMINA-SCI or a Force Majeure Event), BUYER shall pay SANMINA-SCI, termination charges (collectively, the "Termination Charges") equal to (1) the contract price for all finished product existing at the time of termination; (2) SANMINA-SCI's cost (including SANMINA-SCI's Delivered Cost for Material plus its Burdened Cost of labor) for all work in process; (3) SANMINA-SCI's Delivered Cost of Material, including excess Material resulting from any minimum buy quantities, tape and reel quantities and multiples of packaging quantities required by the vendor; and (4) a reasonable profit. "Delivered Cost" shall mean SANMINA-SCI's quoted cost (as set forth in the costed bill of materials or otherwise or, if no quoted cost exists, SANMINA-SCI's standard cost) plus a fifteen percent (15%) materials margin; provided, however, that in the event this Agreement is terminated as a result of SANMINA-SCI's breach, Delivered Cost shall mean SANMINA-SCI's quoted cost (or, if no quoted cost exists, SANMINA-SCI's standard cost). "Burdened Cost" shall mean SANMINA-SCI's actual cost of labor including benefits and overhead.
9. **Indemnification.** BUYER shall indemnify, defend, and hold SANMINA-SCI and SANMINA-SCI's affiliates, shareholders, directors, officers, employees, contractors, agents and other representatives harmless from all demands, claims, actions, causes of action, proceedings, suits, assessments, losses, damages, liabilities, settlements, judgments, fines, penalties, interest, costs and expenses incurred (including fees and disbursements of counsel) of every kind (i) based upon personal injury or death or injury to property to the extent any of the foregoing is proximately caused either by a defective product (including strict liability in tort) or by the negligent or willful acts or omissions of BUYER or its officers, employees, subcontractors or agents, (ii) based on any breach of this agreement and/or (iii) arising from or relating to any actual or alleged infringement or misappropriation of any patent, trademark, mask work, copyright, trade secret or any actual or alleged violation of any other intellectual property rights arising from or in connection with the products, except to the extent that such infringement exists as a result of SANMINA-SCI's manufacturing processes.
10. **Force Majeure Event.** Neither party shall be responsible for any failure to perform due to a Force Majeure Event provided that such party gives notice to the other party of the Force Majeure Event as soon as reasonably practicable, specifying the nature and particulars thereof and the expected duration thereof. A "Force Majeure Event" shall mean the occurrence of unforeseen circumstances beyond a party's control and without such party's negligence or intentional misconduct, including, but not limited to, any act by any governmental authority, act of war, natural disaster, strike, boycott, embargo, shortage, supplier delay in delivering Material to SANMINA-SCI, riot, lockout, labor dispute, or civil commotion.
11. **Miscellaneous.** The terms and conditions set forth herein constitute the entire agreement of the parties, superseding all previous agreements covering the subject matter. This agreement shall not be changed or modified except by written agreement, specifically amending, modifying and changing this agreement, signed by a corporate officer of SANMINA-SCI and an authorized representative of the BUYER. BUYER hereby acknowledges that it has not entered into this Agreement in reliance upon any warranty or representation by any person or entity except for the warranties or representations specifically set forth herein. The failure by SANMINA-SCI to enforce at any time any of the provisions of this agreement, to exercise any election or option provided herein, or to require at any time the performance by BUYER of any of the provisions herein will not in any way be construed as a waiver of such provisions. In the event the parties cannot resolve a dispute, the parties acknowledge and agree that the state courts of Santa Clara County, California and the federal courts located in the Northern District of the State of California shall have exclusive jurisdiction and venue to adjudicate any and all disputes arising out of or in connection with this agreement. The parties consent to the exercise by such courts of personal jurisdiction over them and each party waives any objection it might otherwise have to venue, personal jurisdiction, inconvenience of forum, and any similar or related doctrine. This agreement shall be construed in accordance with the substantive laws of the State of California (excluding its conflicts of laws principles). Reasonable attorney's fees and costs will be awarded to the prevailing party in the event of litigation involving the enforcement or interpretation of this agreement.