

## **Alard Engineering Terms and Conditions**

Alard Engineering ("Seller") hereby objects to any provisions contained in Buyer's orders, purchase orders, confirmations, terms and conditions, or any other documents, which vary from Seller's terms and conditions which are stated in these TERMS AND CONDITIONS OF SALE (the "Agreement"). If BUYER submits an order, purchase order, master purchase order, confirmation, supply agreement, or the like, which contains terms in addition to, or different from, the terms stated herein, such additional or different terms shall be void and shall not become a part of this Agreement.

1. **PRICING:** All machine products or other goods which are the subject of this order (hereinafter referred to as "Products") are priced F.O.B. Seller's facility in Gardena, CA. Prices do not include local, state or federal use, excise, sales or other similar taxes. Prices do not include the costs of shipping, packing, packing materials, drayage or insurance.

2. **TITLE TO PRODUCTS AND RISK OF LOSS:** Title to Products shall pass to Buyer upon Seller placing such Products in the custody of a carrier for shipment to Buyer. The risk of loss of Products shall pass to Buyer upon Seller's placing such Products in the custody of a carrier for shipment to Buyer.

3. **SHIPMENT TERMS:** SELLER shall comply with BUYER'S reasonable routing and shipping instructions. If such printed instructions are not attached to a purchase order, BUYER shall provide them to SELLER, in writing, prior to the date of shipment. BUYER shall have the sole responsibility of negotiating with the selected carrier and/or insurer. SELLER will not insure Products.

4. **ANTICIPATED DELAY IN SHIPMENT:** In the event that Products will be shipped more that fifteen (15) days after the shipment date agreed to by Seller and Buyer, Seller shall reasonably notify Buyer of any circumstances causing the delay and stating the length of the delay anticipated. If shipment cannot be or is not made more that thirty (30) days after the agreed shipment date, Buyer may, upon knowledge of such fact and whether or not the delay would be excusable, terminate such order by written notice to Seller and, despite any other provisions of this Agreement, such termination shall be without cost to Buyer and shall discharge all obligations and liabilities of the parties under such order except as to Products shipped.

5. **PAYMENT TERMS/CREDIT/SOLVENCY:** The purchase price for Products, including all local, state or federal use, excise, sales or other similar taxes, and any costs for packing, packing materials, drayage, shipping or insurance, must be paid to Seller prior to shipment and at the time of ordering Products. If Buyer's credit was previously approved by Seller in writing, payment terms shall be net thirty (30) days from receipt of invoice. Buyer agrees that invoices may be sent by mail, fax, email, or delivered by courier. Seller may invoice immediately upon receipt of an order. **INVOICES NOT PAID WITHIN THIRTY (30) DAYS WILL BEAR A LATE CHARGE, TO COVER EXPENSES INCURRED BY SELLER IN CONNECTION WITH BUYER'S FAILURE TO TIMELY PAY, AT THE RATE OF ONE AND ONE HALF PERCENT**

(1.5%) PER MONTH. Buyer confirms that it is not insolvent as that term is defined by the Uniform Commercial Code and that Buyer's receipt of Products shall constitute its reaffirmation that Buyer is not insolvent.

6. SPECIFICATIONS/WARRANTIES: Seller represents that all Products shall conform to the plans and/or specifications provided to Seller by Buyer. SELLER MAKES NO OTHER WARRANTY EITHER EXPRESSED OR IMPLIED AND DISCLAIMS ANY WARRANTY FOR FITNESS FOR A PARTICULAR PURPOSE OR THE WARRANTY OF MERCHANTABILITY.

7. INSPECTION, ACCEPTANCE, AND REJECTION: Within ten (10) days of Buyer's receipt of any Products, Buyer shall, (1) Inspect Products to confirm that they conform to the plans and/or specifications that were provided to Seller; and, (2) notify Seller by facsimile and email of Buyer's acceptance or rejection of Products. Should Buyer reject any Products, Buyer shall specify in detail all reasons for the rejection. Failure of Buyer to accept or reject any Products within ten (10) days of Buyer's receipt shall constitute irrevocable acceptance of Products. Upon rejection Buyer shall, at the option of Seller, make Products available for inspection at Buyer's facility, or ship Products to Seller in accordance with Seller's reasonable shipping instructions.

8. LIMITATION OF REMEDIES FOR SELLER'S BREACH OF WARRANTY:

8.1. REPAIR, REPLACEMENT OR REFUND PRIVILEGE: IF ANY PRODUCTS ARE FOUND TO BE DEFECTIVE AND BUYER NOTIFIES SELLER THEREOF IN WRITING WITHIN THIRTY (30) DAYS OF ITS RECEIPT OF THE GOODS, SELLER MAY, AT ITS OPTION; (1) REPAIR THE PARTICULAR PRODUCTS; (2) REPLACE THE PRODUCTS WITH EQUIVALENT PRODUCTS OF EQUAL OR GREATER VALUE; OR (3) REFUND THE PURCHASE PRICE OF THE DEFECTIVE PRODUCTS TO BUYER. THIS PROVISION SHALL BE BUYER'S EXCLUSIVE REMEDY FOR BREACH OF WARRANTY.

8.2 NO CONSEQUENTIAL DAMAGES. SELLER SHALL NOT BE LIABLE FOR BUYER'S LOSS OF PROFITS, BUSINESS, EXPENSES, GOODWILL, OR OTHER CONSEQUENTIAL DAMAGES UNDER ANY CIRCUMSTANCES, INCLUDING SELLER'S BREACH OF THIS AGREEMENT. BUYER HAS ACCEPTED THIS RESTRICTION ON ITS RIGHT TO RECOVER CONSEQUENTIAL DAMAGES AS A PART OF ITS BARGAIN WITH SELLER. BUYER REALIZES AND ACKNOWLEDGES THAT THE PRICE OF THE PRODUCTS WOULD BE HIGHER IF SELLER WERE REQUIRED TO BE RESPONSIBLE FOR BUYER'S CONSEQUENTIAL DAMAGES.

9. PATENT, COPYRIGHT, TRADEMARK, TRADE DRESS, TRADE SECRET INDEMNITY AND DEFENSE: Buyer represents that Products manufactured by Seller in accordance with Buyer's plans and/or specifications do not infringe on any patents, trade dress, trademarks, copyrights, or trade secrets. Buyer agrees to indemnify and defend Seller, and hold Seller harmless from all legal expenses that may be incurred by Seller, as well as all damages and costs that may be assessed against Seller, in any action arising out of, or related to, claims that the Products

which are the subject of this Agreement, infringe on a patent, copyright, trademark, trade dress or rights in trade secrets.

10. NON-WAIVER: Failure by either party to enforce any provision of this AGREEMENT shall not constitute a waiver of such provision or prejudice the right of either party to enforce such provision at any subsequent time.

11. HEADINGS AND PARTIAL INVALIDITY: Headings used in this AGREEMENT are for convenience only and shall not affect the interpretation of the AGREEMENT. If any provision of this AGREEMENT is or becomes void or unenforceable by force or operation of law, the other provisions shall remain valid and enforceable.

12. GOVERNING LAW: This AGREEMENT shall be interpreted, enforced and governed by the Uniform Commercial Code as interpreted by the State of California. To the extent that this AGREEMENT provides for performance of services, such services shall be deemed 'goods' within the meaning of the Uniform Commercial Code, except where such implementation would result in an absurdity.

13. DISPUTE RESOLUTION: The parties agree to mediate all disputes arising out of this Agreement before resorting to litigation. All lawsuits arising out of this Agreement shall be filed in the Courts of the State of California.

14. ENTIRE AGREEMENT: This AGREEMENT constitutes the final and entire understanding and agreement of the parties with respect to the subject matter hereof, and there are no other agreements, representations, warranties or promises, of any kind whatsoever, either written or verbal except as expressly set forth herein.

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## **Quality Clauses**

1. CERTIFICATE OF CONFORMANCE (C OR C): A Certificate of Conformance attesting compliance to all related specifications and/or general requirements must accompany services and/or goods under this purchase order.

2. SPECIFICATIONS ON C OF C:

A) If the specification requested has been superseded, the supplier is authorized to use the superseding specifications without prior approval, however, the C of C must reflect the specification used and why it is not the specification requested.

B) On the C of C, name the specification used, even if no specification is detailed on our documents.

3. INSPECTION & TEST RECORDS: Inspection and test records of any process that are performed under the purchase order are to be documented.

4. PART IDENTIFICATION & TRACEABILITY:

A) Each article of the purchase order shall have identification applied at the time of shipment. The method of identification shall be of a nature, which is secure, yet can be easily removed by personnel without mechanical means.

B) The minimum information that the identification should contain shall be:

- 1) The purchase order number.
- 2) The quantity of the pieces being delivered.

C) Do not mix unlike parts.

5. OPTIONAL SOURCE INSPECTION:

A) Alard reserves the right to inspect, at supplier's facility, any product under the purchase order. Alard shall contact supplier to confirm or waive source requirements. In the event that contact has not been made between Alard and supplier before time of completion, the supplier is authorized to ship product, provided that all other requirements are met.

B) All pertinent customers of Alard (including government representatives) reserve the right to be present during any source inspection performed per this clause.

6. RIGHT OF ENTRY: Alard and their customers, and authorities (including government representatives) reserve the Right-Of-Entry into all facilities involved with this PO to determine and verify quality of work at any and all stages of production. All information, including digital information, records, logs, inspection tests and any other data are subject to review by Alard and their customers.

7. SUPPLIER SURVEY: The supplier's Quality Assurance system is subject to an initial survey and approval by Alard and/or their customers. Subsequent review of supplier and/or processors may be conducted before or after issuance of purchase order. Deficiencies identified as a result of a survey shall be noted and follow-up activities taken to ensure proper corrective actions have been implemented.

8. SUB-TIER SUPPLIERS: Supplier is responsible for the quality and conformance of all material, supplies and services not provided to supplier by Alard.

9. NON-CONFORMING PRODUCT:

A) Any deviation from product specifications or drawing requirements shall be documented and submitted to Alard in a timely manner for disposition and shipping instructions.

B) Supplier must notify Alard if they become a disapproved source.

10. PROPRIETARY AGREEMENT:

A) All drawings, specifications, technical information and electronic definition used in conjunction with purchase order are considered confidential and proprietary to Alard and its customers.

B) Unauthorized reproduction of media is not permitted in any form other than that intended to produce product and/or services directly associated with purchase order.

11. ITAR COMPLIANCE: Some of Alard work is controlled under International Traffic in Arms Regulations. When any document (PO, blueprint, etc.) references "ITAR" or "International Traffic in Arms Regulations" the supplier is required to comply with the law.

A) Alard interprets the law as mandating that no "foreign person" handles the parts or has access to the technical data (PO, blueprint, etc.).

B) For the purposes of ITAR compliance, we interpret a "foreign person" as anyone who is neither a US citizen nor a US permanent resident (green card holder).

C) It is the supplier's responsibility to conform to the law, rather than our interpretation.

12. ACCEPTANCE OF PRODUCT OR SERVICE: The signature of an Alard employee on a packing slip does not signify acceptance of the work done. The receiving employee lacks the knowledge and authority to verify that the material is appropriate.

13. CONFLICTING REQUIREMENTS: If a conflict exists between any two requirements, including those on this document, contact us for clarification.

14. DEFINITION OF RECORDS: The word supplier is used in this document with the definition of an external supplier organization in ISO 9000, which is a "producer, distributor, retailer, or vendor of a product, or provider of a service or information.

15. RETENTION OF RECORDS: Supplier shall retain all viable quality and/or test records in accordance with this order and make readily available to Alard or its customer, upon request for a period of no less than seven (7) years after date of delivery, unless otherwise stated.

16. PRODUCT / PROCESS CHANGE: Supplier shall notify the organization of changes in product and/or process, changes of suppliers, changes of manufacturing facility location and, where required, obtain organization approval, and flow down to the supply chain the applicable requirements including customer requirements.

17. NON-CONFORMING PRODUCT: Supplier shall notify the organization of nonconforming product, obtain organization approval for nonconforming product disposition.

18. ACCEPTANCE OF TERMS & CONDITIONS: Acceptance of a PO signifies acceptance of Alard's Terms & Conditions.

19. COUNTERFEIT PRODUCT / MATERIAL: Suppliers shall assure that all products provided to Company are genuine and no counterfeit product shall be used or shipped. Seller shall notify Company immediately if seller suspects or is aware that they have furnished counterfeit goods and promptly replace the counterfeit parts with genuine parts. Supplying counterfeit goods to Company will hold the seller responsible for all costs associated with the replacement of said counterfeit parts.

20. CONFLICT MINERALS: Alard can accept no product that contains "Conflict Minerals" as defined by the U.S. Securities and Exchange Commission, as directed by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The rules require manufacturers who file certain reports with the SEC to disclose whether the products they manufacture or contract to manufacture contain "conflict minerals" that are "necessary to the functionality or production" of those products. Suppliers to Alard may be contacted and requested to substantiate the source of products that may contain the minerals listed above. Alard expects its suppliers to conduct similar due diligence on the sources and chains of custody of conflict minerals and make their due diligence findings available to Alard.

21. EMPLOYEE AWARENESS: Supplier is required to ensure that personnel are aware of:

1. Their contribution to product or service conformity.
2. The importance of ethical behavior.
3. Their contribution to product safety.

22. ASQR-01 REQUIREMENT FLOWDOWN TO ALL SUPPLIERS: All suppliers and distributors to Alard are subject to and must comply with the current revision of ASQR-01 from UTC.

23. COMBATING TRAFFICKING IN PERSONS (FAR 52.222-50) (DFAR 252.222-7007): The supplier shall notify its employees and agents of the U.S. Government's policy regarding Combating Trafficking in Persons as described in 52.222-50(b), as well as those resulting actions that may be taken against employees or agents for violations of this policy. The supplier

shall implement the required compliance plan described in 52.222-50(h) to prevent any prohibited activities identified in 52.222-50(b) and to monitor, detect, and terminate the contract with any subcontractor(s) engaging in prohibited activities.

24. CYBER SECURITY COMPLIANCE (FAR 52.204-21) (DFAR 250.204-7009, 252.204-7012):  
Cyber Security requirements involved in DoD contracts apply to this purchase order.