

# IMPACT COMPONENTS

## PURCHASE ORDER TERMS & QUALITY CLAUSE CONDITIONS

**A. PRODUCT:** 1) All goods must be new and unused, and neither reconditioned, repaired, or modified from the Original Component Mfg's (OCM) design. 2) All parts must be prime, unused, un-pulled and un-programmed. 3) Parts must not have bent or formed leads, test dots or other 3<sup>rd</sup> party markings. 4) All parts must be contained in original manufacturers' packaging. 5) No substitutions or changes are allowed without written approval from Buyer. 6) Prior to shipment, Seller shall notify Impact Components if a non-conformance condition exists with the product and obtain approval for nonconforming product disposition. 7) Seller shall notify Impact Components of any product and/or process changes of Seller, changes of manufacturing facility location and, where required, obtain organization approval. 8) Quantity variances and / or partial shipments are not permitted unless prior written authorization is received from the Buyer

**B. COUNTERFEIT / SUSPECTED PARTS POLICY:** 1) Impact Components reserves the right to seize, quarantine, and impound any / all suspected counterfeit products it receives from the Seller. Suspected counterfeit parts may be forwarded to the IP holder (OCM), and to appropriate Federal or State authorities for final analysis, possible confiscation and / or destruction. 2) If the products furnished by the Seller are determined to be counterfeit, Seller shall be liable for all costs relating to impound, investigation, removal or replacement of suspect/counterfeit parts, and any fines or fees associated with, or incurred by Impact Components. 3) If parts are seized and suspected of being counterfeit by Customs authorities, the Purchase Order is immediately considered void and the Seller shall be obligated to reimburse Impact Components for any payment made in advance for the seized parts. There is no warranty time limit for product to be found counterfeit. Counterfeit parts have no value.

**C. DEFINITION OF COUNTERFEIT, SUBSTANDARD, SUSPECTED, AND FRAUDULENT PARTS:** 1) Impact Components defines Counterfeit electronic parts as unauthorized copies, of domestic or internationally known, trademarked, protected, or patented parts. Parts that have been manufactured, modified, or re-engineered, by anyone other than the holder of exclusive rights, or authorized agents. 2) Impact Components defines a Substandard part as a component that falls below the OCM factory standard specifications and condition, or one that fails to operate as expected. 3) Impact Components defines Suspected parts as: A component, which at inspection appear to be an unauthorized copy, or substitute of a genuine OCM part, but may require further examination and testing to validate authenticity. 3) Impact Components defines as Fraudulent: Substandard, or Counterfeit parts that are *knowingly misrepresented* by the Seller in fulfillment of contractual agreements.

**D. INSPECTION:** 1) All goods subject to inspection and approval. 2) All incoming materials will be subject to a complete inspection of quality and conditions, quantity, date codes, manufacturer and any defects. 3) The original manufacturers' markings, labels and date codes must be legible and not altered in any way. 4) All date codes must match unless otherwise agreed to in writing by both parties. 5) Buyer and authorized representatives of Buyer's Customers and / or Regulatory Authorities shall have direct access to all applicable areas of all Seller's and Seller's Subcontractor's Plants (at any level of the 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. 6) If Government Source Inspection is required, it shall be performed at Seller's facility prior to shipment as directed by Impact Components/ "GSI" any in process inspection is also mandated by this clause. Seller shall provide evidence of Government Source Inspection with each shipment if applicable

**E. QUALITY ASSURANCE:** Upon request by Impact, the Seller must provide Impact and its nominees with access to the Seller's premises to undertake periodic quality audits and quality surveillance of the Seller's quality system and/or the production processes related to the Supplies.

**F. INSURANCE:** The seller must procure and maintain such insurances and, on such terms, and conditions as a prudent Supplier, providing supplies similar to the Supplies, would that would be procured and maintained

**G. WARRANTIES:** 1) All products must comply in form, fit and function to meet manufacturers' specifications. 2) Seller warrants goods supplied are merchantable and fit for the particular purposes for which goods are ordinarily employed. 3) Seller further warrants to the Buyer and to any third party ultimately using any item whether such third party is a customer of Buyer or not, that all items delivered under this order will be free from defects in material and workmanship and will conform to applicable specifications, drawings, samples and descriptions. 4) Seller shall be liable for all damages both to Buyer and its customers incurred as a result of any defect or breach of warranty in any item covered by this order. 5) The foregoing express warranties shall be in addition to any warranty customarily made by Seller of its product and any implied warranties and shall be construed as conditions as well as warranties. 6) SELLER'S WARRANTY SHALL EXTEND FOR A MINIMUM OF 90 DAYS AFTER THE ITEM IS DELIVERED AND ACCEPTED BY BUYER AND APPLIED TO ITS INTENDED USE. Where Buyer delivers that item to its customers or any third party, Seller's obligation under this clause shall be for the benefit of Buyer's customer and shall extend to 90 days after application of the item to its intended use.

**H. LIABILITY:** Subject to clause G, and to the extent permitted by law, the liability of the Seller and its employees or agents for a breach of any term of the Agreement (including the supply of counterfeit Goods or components) and any warranty or liability implied or otherwise, is limited, at Impact's option, to: a) for a major failure, Impact is entitled to a replacement or refund for the Goods and compensation for any reasonably foreseeable damage; b) the replacement of the Goods or the supply of equivalent Goods; c) the repair of the Goods; d) the payment of the costs of replacing the Goods or of acquiring equivalent goods; or e) the payment of the cost of having the Goods repaired. The Seller is liable for damages and losses incurred by Impact (and users of the Goods) in connection with a demand, action, arbitration or other proceeding, arising directly or indirectly as a result of or in connection with: a) a breach by the Seller of any representation or warranty or guarantee provided herein or implied by law; b) a breach or non-performance of any obligation of the Seller under these terms and conditions, whether express or implied; and c) a claim that the Goods supplied to Impact infringe any Intellectual Property Rights of a third party. d) The Goods do not conform to specification as either published or provided to Impact or agreed to by Impact; Or specified on Impact's Purchase Order. The Seller is liable for all legal costs and other expenses, on a full indemnity basis, incurred by Impact. The provider of the warranties under these terms and conditions is the Seller. Other than as expressly provided for, Impact, its contractors and/or agents will not be liable for any loss or damage (including consequential loss or damage, which includes without limitation, loss of profit and loss of revenue) suffered in connection with the Goods except in circumstances where such loss or damage is due to the gross negligence of Impact, its contractors and/or agents

**I. SUPPLIER INDEMNITY:** The Seller indemnifies Impact from every liability, loss, damage, cost or expense directly or indirectly incurred or suffered by Impact that is caused by or contributed to by any of the following: a) Impact's compliance with any of the Seller's instructions about the Goods; b) the Seller's or its employees' failure (or any third party associated with its failure) to: 1) adequately provide safety information relating to the Goods; 2) comply with any laws relevant to providing the Goods; 3) take any reasonable precaution to bring to the attention of any potential users of the Goods any dangers associated with the Goods; 4) take any reasonable precaution to detect any matters to which Impact may become liable. 5) provide correct information to Impact; and 6) use and maintain the Goods prior to delivery to Impact in accordance with the manufacturer's instructions and or any other written materials supplied with the Goods relating to the storage, installation and operation of the Goods. c) any negligence or breach of duty by the Seller or any breach by any third party of these terms and conditions; d) any workmanship or procedure performed by the Seller or a third party in connection with the Goods; and e) any misuse, neglect or alteration by the Seller, its agents, its employees or any third party of the property of Impact in connection with supplying the Goods.

**J. COMPLIANCE WITH ANTI-SLAVERY LAWS:** The Seller: (a) must ensure when performing its obligations under the Contract that it complies with all applicable Anti-Slavery Laws and relevant Purchaser policies, procedures or statements relating to anti-slavery; (b) must provide, at its cost, all reasonable assistance (including the provision of information and access to documents, personnel and contractors) that the Purchaser may require to enable the Purchaser to comply with its obligations under the Anti-Slavery Laws; and ) must immediately notify and provide full particulars to the Purchaser upon becoming aware the Supplier has or may have breached clause J. or that it or any of its personnel or subcontractors have been found guilty by a court of, or have admitted guilt or accepted liability in relation to, a contravention of any Anti-Slavery Laws; (d) acknowledges that if it gives a notice to the Purchaser under clause J. (c) or the Purchaser becomes aware or has a reasonable suspicion of any breach this clause J. or any conduct which may give rise to a breach of this clause J. (Anti-slavery breach), the Purchaser may in its absolute discretion do one or more of the following: (i) request the Seller provide all information the Purchaser reasonably requires in relation to the alleged Anti-slavery breach; (ii) request the Seller assist the Purchaser with any investigation the Purchaser wishes to conduct into the alleged Anti-slavery breach; (iii) direct the Seller to prepare, document and implement a corrective action plan to address any failure by the Seller to comply with clause J., or to mitigate the risk, damage or potential damage arising from the Anti-slavery breach, including the termination of any relationship between the Seller and any person involved in the contravention of the Anti-Slavery Laws; (iv) propose revised terms under which the Purchaser is prepared to continue the performance of the Contract and, if those terms are not agreed by the parties

within the time specified in the Purchaser's proposal, terminate the Contract by giving ten days' notice in writing to the Seller; or (v) terminate the Contract pursuant to clause P.

**K. SUPPLIER CERTIFICATE OF CONFORMANCE:** 1) When required, a legible and reproducible Certificate of Conformance or Seller's statement of quality will accompany each shipment. Certifications must show the part number, quantity, specification, and revision number, and have a legible printed and signed signature and title of responsible person signing the certification. This certifies the material / services provided by the seller meet all drawing and / or specifications requirements. Records supporting this certification shall be on file and shall be provided to Buyer upon request.

**L. DELIVERY:** Seller acknowledges that all orders should be delivered On-Time. 1) If shipment will be delayed for any reason, Seller should contact Buyer at once. 2) No change in the scheduled delivery date will be permitted without Buyer's written consent. 3) Any short shipments are cause for cancellation by Buyer without cost or obligation. 5) Seller waives the right to cure a non-conforming delivery. 6) If the Seller does not supply the Goods at the Delivery Point on the Delivery Date, Impact may, in addition to any other remedy: a) obtain those Goods from another source; b) refuse to accept the late delivery of those Goods; and will not be liable for any payment for those Goods or any other penalty c) at its election, accept or reject partial deliveries. d) require the Seller to ship the Goods via air (where the context requires) or other expeditious route to minimize delay in delivery, and the Seller must bear all costs occasioned thereby.

**M. SHIPPING INSTRUCTIONS:** All goods are to be shipped freight collect, F.O.B. destination by the specified carrier, unless otherwise stated. 1) SELLER SHALL NOT CHARGE INSURANCE except upon Buyer's written request. We carry our own. 2) Regardless of F.O.B. Point, Seller agrees to bear all risk of loss, injury, or destruction of goods and materials ordered herein which occur prior to acceptance by Buyer. 3) No such loss, injury, or destruction shall release Seller from any obligations hereunder. 4) Seller agrees to ship all exported products with accurate and full values on all pro forma invoices and shipping/ customs documentation that corresponds to that which is indicated on the Purchase Order. Under-valued invoices will not be accepted.

**N. PURCHASE ORDER CONFIRMATION:** Please confirm this order immediately. 1) This purchase order is not effective until Buyer receives a copy executed and signed by an authorized representative of the Seller acknowledging the terms and conditions of purchase contained on or attached to this order. 2) Any additional or different terms or conditions which may appear in any communication from Seller are hereby expressly objected to and shall not be effective or binding unless specifically agreed to in writing by Buyer's Purchasing Department. 3) Buyer's acceptance of goods shall not deem acceptance of any additional or different terms or conditions, unless such acceptance specifically recognizes and assents to their inclusion. 4) Buyer reserves the right to cancel any purchase and return any product that does not have a signed confirmation.

**O. CANCELLATION AND MODIFICATION OF ORDERS:** 1) Impact Components may cancel without penalty: any undelivered portion of any Purchase Order upon written notice of cancellation to Seller. Upon receipt of notice of cancellation, Seller must immediately stop work on the undelivered portion of the affected Purchase Order and make no further commitments for materials or services to complete such affected Purchase Order. 2) For Goods where the Seller has failed to supply the Goods in whole or part by the Delivery Date and in accordance with clause L.

**P. DEFAULT AND TERMINATION:** If the Seller breaches any of the terms or conditions of the Agreement, Wycom may issue a Notice of Default. If the Seller does not rectify the default within the time stated in the notice, Impact may, by written notice to the Seller, and without prejudice to any other rights or remedies which Impact may have, cancel the Order and Seller will be discharged and released from any further obligation arising from the Order and have no further obligation of any kind to the Seller. Any amounts due to the Seller for Goods delivered by the Seller prior to such cancellation will be subject to offset of Impact's additional costs of procurement with a replacement Seller and other damages incurred by Impact as a result of the Seller's default, including consequential loss, and is in addition to and not in substitution for any other remedy available at law or in equity.

**Q. ENTIRE AGREEMENT:** The Purchase Order and these terms and conditions represent the parties' entire agreement in relation to the supply of Goods by the Seller to Impact and supersede all tendered offers and prior representations, communications, agreements, statements and understandings, whether oral or in writing.

**R. ASSIGNMENT:** The Seller must not assign any of its rights under the Purchase without the prior written consent of Impact

**S. SURVIVAL:** Clauses I, J, N, O, P and R, continue despite the termination of this Agreement.

**T. TAXES:** Buyer agrees to pay the State Sales and Use Taxes or to provide Seller an exemption certificate. 1) Buyer's resale number in California is SRFH25918562, in Florida is 2680119075973, GST in Canada is 845967678RT0001, and PST in Ontario 58360476. 2) Seller shall pay all taxes that may arise out of its sale of the goods to Buyer except for the State Sales and Use Taxes.

**U. CHOICE OF LAW/VENUE:** California law will govern any disputes arising from this purchase order. 1) The Superior Court of the State of California, County of San Diego will have exclusive jurisdiction over any matter resulting from this purchase order. 2) In the event of any action on this purchase order, the prevailing party shall recover reasonable attorney fees and costs as damages. 3) Before either party initiates any type of action, the parties will participate in mediation, which must last at least four hours unless the dispute is resolved in a shorter amount of time. 4) The liability of Buyer for claims, losses, damages and expenses from any cause whatsoever, regardless of the form of action and whether in tort, contract or otherwise, shall not exceed the lesser of (i) the direct damages proven, or (ii) the purchase price of the product that directly gave rise to the claim. 5) Seller irrevocably consents to the personal jurisdiction of such courts in connection with any such action or proceeding. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.