

### TERMS AND CONDITIONS

1. These Terms and Conditions are for the purchase and sale of the goods and/or services described on the quote page and constitutes OPTIMUM's offer to you as our customer (BUYER). Your acceptance is limited to these terms and conditions. Your purchase of our goods and/or services represents acceptance of these terms and conditions, which constitute the entire understanding between us and supersede any previous communications, representations or agreements by either of us, whether oral or written. To the extent that any prior offer sets forth any term at variance with or in addition to these terms, such offer is hereby rejected by OPTIMUM and these terms and conditions are proposed as a counteroffer to you. These terms and conditions may be changed or added to only by a writing signed by each of us. If you do not wish to be bound by the terms and conditions of sale expressed here, please contact us to discuss changes prior to our providing any goods or performing any services for you. OPTIMUM's acceptance of BUYER's terms and conditions herein is expressly conditioned upon BUYER's assent to OPTIMUM's Terms and Conditions listed herein. BUYER's acceptance of OPTIMUM's Goods and Services covered by this Agreement and BUYER's Orders, is deemed by the parties to be the BUYER's assent to such exceptions/amendments.
2. This quotation is valid for fifteen (15) days after the date hereof. Unless otherwise specified in writing, all sales invoices shall be paid within thirty (30) days from the date of the invoice. We will not be obligated to continue performance under any contract we have with you if any invoice is past thirty (30) days due. In an action brought to collect an amount due and owing on account related to an OPTIMUM invoice for goods provided or services rendered, the prevailing party shall be entitled to recover its attorneys' fees, costs, expenses, and interest at the maximum rate allowed by law. In other actions, neither party shall be entitled to attorneys' fees, costs, expenses or interest. Any component pricing is subject to market conditions, prices, lead times and availability. OPTIMUM may invoice for work in progress every two (2) weeks for completed work to date, to be paid within thirty (30) days from invoice date.
3. Prices shown on the face of this Acknowledgement are in U.S. dollars, include packaging for domestic shipment, if applicable, and are exclusive of any other amounts including without limitation fees for export, special packaging, transportation and insurance. Prices do not include any taxes, customs duties or tariffs. When OPTIMUM has the legal obligation to pay or collect any such taxes, the appropriate amount shall be paid by you. If you are exempt from any such taxes, you must provide OPTIMUM with a valid exemption.
4. You may halt work on this project for five (5) cumulative work days without changing the payment terms of this agreement. If you halt this project for more than five (5) cumulative work days, we will invoice you for a pro-rated amount based on work performed. This pro-rated invoice shall be paid in accordance with the terms set forth in paragraph two (2) above. If the project is resumed, the balance of the quoted price will be due according to the original payment terms after the final invoice is delivered.
5. We shall make commercially reasonable efforts to meet any delivery date as quoted or acknowledged, but will not be liable for any failure to meet a delivery date unless a penalty clause is included in the quote and purchase order itself. Liability shall be limited only to the dollar amount listed in any such penalty clause and if there are no ECO's (engineering change orders) that effect delivery dates. Any shipment dates in this acknowledgment are estimates only. You acknowledge that such dates may change due to unpredictable market trends. Products shall be packed for shipment in OPTIMUM's standard shipping materials, marked for shipment to the destination specified in your purchase order, and made available for pickup by the carrier at our shipping location, at which time risk of loss shall pass to you. You shall pay all freight, insurance, and other shipping expenses, as well as expenses for any special packing. OPTIMUM retains title to all products until we receive full payment. We will be excused from any obligation to the extent performance thereof is rendered impossible by acts of God, fire, flood, riots, material shortages, strikes, governmental acts, disasters, earthquakes, inability to obtain labor or materials through its regular sources, or any other reason beyond the reasonable control of OPTIMUM.
6.
  - (a) We warrant that any shipped layout data provided by OPTIMUM will conform to the data approved by you, and that any data supplied on disk(s) will be properly recorded on the disk media at time of shipment for a period of ninety (90) days from shipment of data to you. OPTIMUM cannot be held responsible for errors in transmission of data transferred electronically. If a layout error occurs as a result of our negligence, but the error was discoverable in the approval data sent to and approved by you, we will use commercially reasonable efforts to correct the layout in such a way as to make it conform to the design specifications, and will furnish you with corrected layout data at our expense. In the event that the shipped data does not agree with the customer-approved data, resulting in unusable boards due solely to OPTIMUM's negligence, we will use commercially reasonable efforts to correct the layout to make it conform to the customer-approved data. At our sole option, we may also reimburse you for either the cost to fabricate a prototype quantity of boards or for the cost of the design, but such reimbursement is not guaranteed. In no event will we be liable for any board quantities greater than the minimum prototype quantities appropriate for the board in this stage of development (minimum lot charge, usually between five (5) and ten (10) boards), nor will we be liable for premium charges of the board fabricator for boards built on a rush schedule.
  - (b) We warrant that any computer aided design (CAD) library data will conform to the input provided by you for a period of ninety (90) days from shipment of the library to you. We will use commercially reasonable efforts to fix any workmanship errors within your library database only, and we will not be liable for any other damages, including but not limited to CAD layout, fabrication, assembly, test, and field failures.
  - (c) We warrant that any printed circuit board (PCB) or electro/mechanical box build assembled by us will be delivered free from any defects in workmanship for a period of ninety (90) days from shipment of the products to you. Our sole liability and your exclusive remedy for products that fail to conform to this limited warranty ("Nonconforming Products") is limited to repair or replacement, at OPTIMUM's sole option and election, of such Nonconforming Products. The warranty for the repaired or replaced Nonconforming Product is limited to the scope and duration of the original warranty for the Nonconforming Product. This warranty is contingent upon proper use of the product in the application for which it was intended and does not apply to any product that is subjected to unusual physical or electrical stress, misuse, neglect, improper testing or storage, or unauthorized repair. Return of Nonconforming Products must be made according to OPTIMUM's then-current return and RMA policies.

--- con't from page 1 ---

(d) Assemblies that are electrically tested (in-circuit or functional) by OPTIMUM are only guaranteed to pass incoming inspection at the customer. Unless otherwise specified, we will build to IPC-A-610C Class II workmanship standards. OPTIMUM does not guarantee any functional performance of any design, PCB or assembly. We do not warranty any PCBs or PCB components to be compliant with any Restriction on the use of Certain Hazardous Substances (RoHS) laws. We do not guarantee the performance of components purchased by OPTIMUM (on behalf of you) or consigned to OPTIMUM. Any components purchased by OPTIMUM are not traceable to the source unless specified in the quotation. OPTIMUM may purchase components from manufacturers, distributors and/or brokers of any date code unless specified on our quotation. OPTIMUM does not guarantee the performance of any component supplied and is not responsible for any rework involved in replacing defective components.

(e) The foregoing provisions of this paragraph constitute our entire liability to you, and set forth your exclusive remedy in all cases. Our warranty extends only to you, as our customer, and cannot be transferred from you to your customer or to any other person or company.

(f) OTHER THAN AS EXPRESSLY SET FORTH IN THIS SECTION, WE DISCLAIM ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN ANY EVENT, OUR LIABILITY TO YOU IS LIMITED TO THE PURCHASE PRICE OF OUR SERVICES.

7. We make no representation that we have reviewed or approved, or will review or approve, either (1) the specifications that you provide us or those that OPTIMUM uses with your approval, or (2) the electrical design, functioning or safety of the printed circuit boards that may be produced and used. Similarly, we are not responsible for the safety in operation of the final product or any prototype of the product, or for any damages relating to the conditions under which the product is used. You represent and warrant to us that the product in which you will use any boards whose layout we performed will conform with all applicable safety, functionality and other standards, including but not limited to industry standards and federal, state, local and foreign government statutes, regulations and rules. You agree to indemnify us and hold us harmless from any damages, claims, obligations or other liabilities, including attorneys' fees and costs that are incurred as a result of or in connection with noncompliance with such standards, statutes, regulations or rules. Moreover, as the supplier of the electrical and mechanical design specifications, you agree to indemnify us and hold us harmless from any patent, copyright, trade secret or trademark infringement claims that may arise from our compliance with your design specifications.

8. We in our discretion may furnish as an accommodation to you certain technical advice or assistance, including suggested engineering or design changes, but we assume no obligation or liability for such advice or assistance, which shall be at your sole risk as the designer and approver of all product design features.

9. Once we have shipped the data to you, including the customer database copy, we will no longer be responsible for storing or archiving your data. You represent and warrant to us that the delivered data will be stored and protected to your own satisfaction and standards for storage and protection, and you will hold us harmless in the event that, if your delivered data is lost or destroyed, we are unable to supply a replacement copy from our archives.

10. IN NO EVENT SHALL WE BE LIABLE FOR ANY DAMAGES WHATSOEVER, WHETHER BASED ON CONTRACT, TORT, WARRANTY OR OTHER LEGAL OR REQUITABLE GROUNDS, INCLUDING, BUT NOT LIMITED TO, CONSEQUENTIAL DAMAGES, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, OR OTHER MONETARY OR FINANCIAL LOSS, WHICH ARISE OUT OF THE USE OR INABILITY TO USE THE SUPPLIED DATA, ANY MANUALS OR OTHER DOCUMENTS SUPPLIED, OR ANY OTHER GOODS OR SERVICES SUPPLIED, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. PLEASE NOTE, HOWEVER, THAT THE LAWS OF SOME STATES MAY PROVIDE YOU WITH DIFFERENT AND GREATER RIGHTS AND REMEDIES THAN THOSE PROVIDED HEREIN.

11. None of the products or underlying information or technology may be exported or re-exported, directly or indirectly, contrary to U.S. law or U.S. Government export controls.

12. Any controversy or claim arising out of or relating to this agreement or the alleged breach hereof shall be settled by final and binding arbitration in accordance with Chapter 2, Title 9, Part III of the California Code of Civil Procedure (Code of Civil Procedure Sections 1280 et seq.) and shall be settled by arbitration before a single neutral arbitrator in Alameda County, California.

13. THESE TERMS AND CONDITIONS ARE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REFERENCE TO CONFLICT OF LAW PRINCIPLES

-----End of Terms and Conditions-----