

TERMS AND CONDITIONS OF PURCHASE

- 1. ACCEPTANCE, ENTIRE AGREEMENT, MODIFICATION** – The Purchase Order constitutes BUYER's offer to SELLER upon terms and conditions stated herein and on the face of the actual Purchase Order, and does not constitute an acceptance by BUYER of any offer to sell. This order shall be deemed accepted upon the return of the acknowledgment copy of this order or the commencement of performance by SELLER. This purchase order expressly limits acceptance to the terms and conditions slated herein. Any additional or different terms or conditions proposed by the SELLER are objected to and are hereby rejected and shall be of no effect nor in any circumstances binding upon BUYER. These terms and conditions constitute the entire agreement between the parties and no change to or modification of this order shall be binding upon BUYER unless signed by an authorized representative of BUYER's procurement or purchasing office at BUYER's place of business issuing this order.
- 2. CHANGES** – BUYER may make changes in the drawings and specifications on any item at any time. If such changes result in delay or additional expense to SELLER, an equitable adjustment of price and delivery schedule will be made.
- 3. SPECIFICATIONS** – If blueprints or specifications are furnished by the BUYER, this Purchase Order shall be based upon such blueprints or such specifications, and approval of samples by BUYER shall not relieve the SELLER from strict and full compliance with such blueprints or specifications. Articles or goods not conforming to such blueprints or specifications may be rejected.
- 4. PROCESS MONITORING** – Suppliers are responsible for monitoring their manufacturing processes performance and conducting sufficient process control, inspection, testing proactive and preventative measures to assure that all materials delivered to BI Technologies are in full compliance to specifications. Statistical sampling is strongly encouraged to insure that the manufacturing processes are in statistical control. Related information must be available and could be requested by BI technologies at any time. ISO 9001:2000 certification is preferred or strongly recommended for all suppliers. Regardless, the suppliers are responsible for each part conforming to specifications. We do not plan to inspect or test beyond what is required to verify quality by suppliers.
- 5. INSPECTION AND ACCEPTANCE** – Seller agrees to permit BUYER's inspectors to have access to SELLER's plant at all reasonable times for the purpose of inspecting the items as set forth in this order and work in process for production of such items. All items are subject to final inspection and approval at BUYER's plant or other plant or other place designated by BUYER. Such inspection shall be made within a reasonable time after delivery irrespective of the date of payment and the date of payment and the payment for any item purchased hereunder shall not constitute approval or acceptance of such material by BUYER and BUYER's right of inspection shall survive payment. BUYER may return rejected items at SELLER's expense and SELLER shall bear all risk of loss as to rejected items. SELLER shall at BUYER's election, replace any rejected items returned to SELLER hereunder, refund the full purchase price thereof, including shipping costs, or BUYER may, at SELLER's expense, remedy any defects of nonconformity to specifications, drawings, or samples.
- 6. PACKING, SHIPPING, AND DELIVERY** – All items shall be prepared and packed for shipment in a manner that will prevent damage in transit. BUYER is not liable for extra charges for packing, cartage or any other expense related thereto unless stated in this order. SELLER shall mark this Purchase Order number on each container. Deliveries shall be strictly in accordance with the schedule set out or referred to in this Purchase Order and in exact quantities ordered. Time is of the essence for this agreement. Seller will limit and phase expenditures, incurrence of costs, and purchases and subcontract commitments for raw materials and components in such fashion to ensure continuity in production and permit performance and completion of each production increment in sequence without creating any unreasonable accumulations of raw materials or work in process of components for any production increments. Shipments in excess of quantities or in advance of schedule delivery dates as shown herein are not to be made without BUYER's written approval. BUYER reserves the right to return at SELLER's expense any shipments received contrary to this instruction.
- 7. WARRANTY** – SELLER warrants that all goods and/or services provided by it (i) shall be of good quality and workmanship and free of defects, latent or patent; (ii) shall conform to all specifications, drawings or descriptions which are supplied by BUYER; (iii) shall be merchantable and suitable and sufficient by their intended purpose; and (iv) shall be free from any claim of any third party. SELLER may not negate, exclude, limit or modify any warranty otherwise available to BUYER. Any attempt by SELLER to do so is ineffective and shall not in any way bind BUYER. BUYER's inspection or acceptance of any goods or services, on BUYER's payment for goods or services shall no constitute a waiver by it of any warranty. None of the remedies available to BUYER for breach of any of the forgoing warranties may be limited except to the extent and in the manner agreed upon by BUYER in a separate agreement specifically designating such limitation and signed by an authorized representative of BUYER.
- 8. CANCELLATION** – BUYER reserves the right to cancel this purchase order, or any part thereof, at any time, even though SELLER is not in default hereunder, by giving written notice to the SELLER in the event of such cancellation. BUYER shall pay for all goods and services delivered and completed and an equitable settlement shall be arrived at for the costs incurred by SELLER for goods and materials in process not to exceed the aggregate committed quantity and/or price specified in this Purchase Order. Where cancellation is by reason of termination of a contract of the United States Government under which this Purchase Order has been placed, BUYER will pay the SELLER at such time as BUYER is paid by the United States Government. Upon receipt of any notice of cancellation hereunder, SELLER unless otherwise directed, will immediately discontinue all work in progress and immediately cancel all orders or subcontracts given or made pursuant to this Purchase Order. Exercise by BUYER of the rights of cancellation reserved in this paragraph shall give rise to no liability on the part of the BUYER except as specified in this paragraph and shall not have the effect of waiving damages the BUYER might otherwise be entitled to.
- 9. PATENT, TRADEMARK, & COPYRIGHT INDEMNITY** – SELLER agrees to indemnify BUYER and hold it harmless from and against all claims, liability, loss, damage or expense, including counsel's fees, arising from or by reason of any suit, claim or demand relating to trademark, patent or copyright infringement or litigation based hereon with respect to the goods or any part thereof covered by this order and such obligations shall survive acceptance of the goods and payment thereof by the BUYER. SELLER agrees that it will, when so requested, provided that it is given reasonable notice of the pendency of any such suit, claim, or demand, assume the defense of the BUYER and/or its successors, assigns and customers and users of its products against any such aforementioned suit, claim, or demand, pendency of any such suit, claim or demand.

10. **SUBCONTRACT, ASSIGNMENT AND SETOFF** – SELLER shall not, without the written consent of the BUYER, make any contract with any other person for furnishing any of the completed or substantially completed items covered by this order or assign this order or any right hereunder. BUYER may set off against any amount payable to any person under this order any claim or change it may have against SELLER.
11. **BUYER'S PROPERTY** – All tools, dies, jigs, patterns, equipment or material and other items purchased, furnished, charged to or paid for by BUYER and any replacement thereof, shall remain the property of BUYER. Such property shall be plainly marked to show it is the property of BUYER and shall be safely stored apart from other property held by SELLER. SELLER shall not substitute the property for BUYER's property and shall not use such property except in filling BUYER's orders. SELLER shall hold such property at its own risk and upon BUYER's written request redeliver the property to BUYER in the same condition as originally received by SELLER, reasonable wear and tear excepted. Title to and right of possession to special tooling, dies, jigs, patterns and equipment, the cost of which is fully or substantially amortized in the price of the items purchased, shall remain with SELLER but SELLER shall, at no additional cost to BUYER, hold such special tooling for BUYER's exclusive use and SELLER shall not dispose of such tooling without prior written approval of BUYER, SELLER shall take all necessary measures to preserve BUYER's title to BUYER's property, free of all encumbrances. BUYER retains the right in addition to other rights provided by law, to enter SELLER's premises and remove BUYER-owned property with or without a court order. SELLER shall assume and shall indemnify BUYER against any and all liability for damages to property or injury to, or death of any persons which may arise from, may be incidental to the presence of, or may involve the use of BUYER-owned property whether such damage, injury or death is caused by defects in the property, negligence in the use thereof or otherwise.
12. **DRAWINGS, SPECIFICATIONS AND TECHNICAL INFORMATION** – The ideas, information and designs contained in or shown upon, and the drawings, specifications, photographs and other engineering and manufacturing information supplied by BUYER shall remain BUYER's property, shall be retained in confidence by SELLER and not be disclosed to any other person or entity, and shall not be used nor incorporated into any product or item later manufactured or assembled by SELLER for anyone other than BUYER. Any unpatented knowledge or information concerning SELLER's processes, present or contemplated products or their uses, which SELLER may disclose to employees of BUYER in connection with the ordering, acquisition and use by BUYER of the goods or services covered by this order shall, unless otherwise specifically agreed in writing, be deemed to have been disclosed as part of the consideration for this order and SELLER agrees not to assert any claim (other than the claim for patent infringement) against BUYER by reason of any case or alleged use to which any such information or knowledge may be put by BUYER.
13. **COMPLIANCE WITH LAWS** – SELLER represents and warrants that the performance of this order in furnishing of goods and/or service called for shall be in accordance with the applicable standards, provisions and stipulations of all pertinent federal, state, or local laws, rules, regulations, executive orders or other ordinances, including but not limited to the Fair Labor Standards Act, as amended and of regulations and orders of the United States Department of Labor issued under Section XIV thereof, the Occupational Safety and Health Act of 1970, and the Toxic Substances Control Act, each as amended and in connection therein SELLER shall include the following legend on all invoices: "We hereby certify that those goods were produced in compliance with all applicable requirements of the Fair Labor Act, as amended, and of regulations and orders of the United States Department of Labor and that the goods as installed and/or used by BUYER will comply with the Occupational Safety and Health Act of 1970 as amended and the implementing rules and regulations promulgated by the Secretary of Labor".
14. **EQUAL OPPORTUNITY** – During the performance of this order, the SELLER shall comply with provisions of Executive Order 11246, including all amendments thereto relative to Equal Employment Opportunity and the implementing rules and regulations of the Department of Labor on Equal Opportunity Employment, all of which are incorporated herein by specific references and SELLER shall on BUYER's request, so certify.
15. **WAIVER** – Failure of BUYER or SELLER to insist on performance of any of these items and conditions or requisitions of this Purchase Order shall not be construed as a waiver of such items, conditions or requirements and shall not affect the right of either party thereafter to enforce each and every term, condition or requirement hereof.
16. **LABOR DISPUTE** – Whenever SELLER has knowledge that any actual or potential labor dispute has delayed or threatens to delay the timely performance of this Purchase Order, the SELLER shall immediately give notice thereof, including all relative information with respect thereto, to the BUYER. SELLER further agrees to insert the substances of this clause in any subcontract hereunder, except that each subcontract shall provide that the notice and information mentioned above shall be given to its next-higher-tier subcontractor.
17. **CHEMICAL SUBSTANCES** – Notwithstanding anything to the contrary hereafter represented by either party to the other, SELLER warrants that each and every chemical substance sold or otherwise transferred by SELLER to BUYER as of the time of such sale or transfer that is required or permitted to be reported for the inventory of chemical substances (409 CFR Part 710) has been reported to EPA either by SELLER or by others for incorporation in the inventory of chemical substances compiled and published by the administrator of the Environmental Protection Agency pursuant to the Federal Toxic substances Control Act (PL 94-469).
Supplier warrants and certifies that all products, including packaging and packaging of components, provided to company under this agreement have been accurately labeled, in accordance with the requirements of Title 40, code of Federal Regulations, part 82 entitled "Protection of Stratospheric Ozone", subpart E – "The labeling of products using ozone depleting substances".
18. **ENTIRE AGREEMENT** – This Purchase Order and the terms and conditions stated herein and all statements on the reverse side hereof, including all insertions, constitute the complete agreement between the BUYER and the SELLER concerning this purchase and any prior negotiations between BUYER and SELLER or terms or conditions of sale set forth in SELLER's quotation or sales acknowledgment shall not constitute a part of the agreement between
Government Contract Provisions
IF THIS IS AN ORDER UNDER A GOVERNMENT PRIME CONTRACT OR SUBCONTRACT
THE FOLLOWING ADDITIONAL CONDITIONS APPLY
18. **TERMINATION** – Without limiting BUYER's right to terminate this order pursuant to the provisions of paragraph 7, printed hereon, BUYER may terminate the work under this order in accordance with this principles set forth in the applicable provisions or Section VIII of the Armed Services Procurement Regulations in effect on the date of this order.

19. **SOURCE INSPECTION** – BUYER reserves the right to request Government inspection at the source. If this right is exercised, the SELLER at its expense shall make all necessary arrangements with the proper Government agency to arrange for inspection and shall promptly furnish BUYER with the resulting inspection certificates.
20. **ASPR CLAUSES** – The following clauses from the Armed Services Procurement Regulations in effect on the date of the prime contract in connection with which this order is let are hereby incorporated into this order by reference with the same force and effect as though set forth in full: Buy America Act (7-104.3); Contract Work House Standards Act – Overtime Compensation (7-103.16); Walsh-Healy Act (7-103.17); Excess Profits (7-103.11); Military Security Requirements (7-104-12); Examination of Records (7-104.15); Notice to Government of Labor Disputes (7-104.4); Negotiations (7-103.13); Officials Not to Benefit (7-103.19); Covenant Against Contingency Fees (7-103.20); Gratuities (7-104.16); Work Hours Act of 1962 (12-103.1); Equal Employment Opportunity (12-802(a)); and if this order has for one of its purposes experimental, developmental or research work. Patent Rights License (9-107.5(b)); Data (9-203(b)); and Classified Contracts (9-106). If this Purchase Order is in excess of \$5,000. Utilization of Small Business Concerns (1-707.3(a)) and Utilization of Concerns in Labor Surplus Areas (1-805.3(a)) apply, subject to the exceptions stated herein. If this order is or is anticipated to be in excess of \$100,000 additional provisions to properly implement P.L. 87-653, Truth in Negotiations Act, will be added to these conditions as then required by law, regulation or the prime contract. If this order is let under a construction contract or subcontract the applicable provisions of Clauses for General Use in Section XVIII, Part 7 will in addition apply. Where necessary to make the contract of these clauses applicable to this order, the terms “Government” and “Contracting Officer” shall be construed to mean BUYER. The term “Contractor” shall mean SELLER, and the term “contract” shall mean this Purchase Order.
21. **VIETNAM ERA AND DISABLED VETERANS AND THE HANDICAPPED** – This company complies with the requirements of the affirmative action clause set out at 41 CFR 60-250.4 and at CFR 60-741.4 and are incorporated herein by reference.

Greg M.Busch 11/28/2005