



TERMS & CONDITIONS

All sales of products by B. Microfarads, Inc. (dba – Barker Microfarads), also as “BMI”, are subject to the terms and conditions (“T&C”) set forth below. References in these T&C to “Seller” shall refer to BMI, as the appropriate selling entity with respect to any particular sales transaction.

(1) QUOTATIONS - If Seller submits a quotation as to the price and terms for the sale of any products (a “Quotation”), such Quotation may be withdrawn or modified by Seller at any time prior to written acceptance in its entirety by Buyer. Quotations written or verbal, are subject to the conditions of sales listed in these T&C. Unless expressly stated otherwise, written quotations automatically expire thirty calendar days from the date issued. Verbal quotations automatically expire twenty-four hours from the time issued.

(2) CONTRACT - No contract or agreement shall exist until: (a) Buyer sends a purchase order (“PO”) to Seller accepting the terms of a Quotation that has not been withdrawn in their entirety and without amendment or supplement, and (b) Seller sends its order acknowledgement (“OA”) to Buyer. As used herein, the term “Contract” shall refer solely to the combination of the Quotation, the OA and these T&C. Seller shall not be bound by any additions or different terms, whether printed or otherwise in Buyer's PO or in any other communication from Buyer to Seller unless specifically agreed to by Seller in writing. This Contract is not assignable by Buyer, except with the written consent of Seller; and any assignment not specifically consented to in writing by Seller shall be deemed null and void (if the Seller so elects).

(3) TERMINATION OR MODIFICATION - The Contract may be modified only upon Seller's written consent. If all or part of the Contract is terminated, Buyer, in the absence of contrary written agreement with Seller, shall pay termination charges based upon expenses and costs incurred in the production or acquisition of the goods to the date such termination is accepted by Seller plus a reasonable profit, except that any goods acquired or completed by Seller on or prior to Seller's acceptance of such termination shall be accepted and paid for in full by Buyer.

(4) DELIVERY - Promises of delivery from stock are subject to prior sale. Delivery dates are not guaranteed but are estimated on the basis of immediate receipt by Seller of all information to be furnished by Buyer and the absence of delays, direct or indirect, resulting from or contributed to by circumstances beyond Seller's reasonable control. Seller will in good faith endeavor to meet estimated delivery dates. Buyer shall have ten (10) days from delivery of any goods to inspect the shipment of said goods and notify Seller of any failure to conform to Buyer's order thereof (such as an error in number or type of goods delivered). Failure to provide notice as provided herein shall constitute a waiver by Buyer of any claims that such shipment does not conform to Buyer's order. Seller may overship or undership its products to the extent of 10% of specified quantity. In determining the quantity of small capacitors and other



small products, weight count is used which is considered within 5% of the specified quantity. Buyer shall have no right to claim for undershipment nor be obligated to pay for overshipment where actual weight is within 5% of the invoiced quantity.

(5) TERMS OF SALE - Net 30 Days, F.O.B. point of shipment. Time of payment is of the essence of every Contract. Without limiting Seller's remedies if payment is overdue, Buyer shall pay to Seller late fees on any amounts past due under the Contract at the rate of eighteen percent (18.0%) per annum, unless such amount is in violation of any usury law applicable to the Contract, in which case the late fee shall be the maximum amount allowed by such applicable law. In addition, Buyer shall pay to Seller a sum equal to any loss suffered by Seller arising from exchange rate fluctuations. If, in the opinion of the Seller, the financial condition of Buyer at any time does not justify the continuance of product acquisition, production or shipment on the terms of payment specified, Seller may require full or partial payment in advance. Pro-rata payments become due as shipments are made. If shipments are delayed by Buyer, payment shall become due from the date Seller is prepared to make shipment.

(6) PRICES - Prices are subject to CHANGE WITHOUT NOTICE. Quoted prices exclude taxes and duties, packaging, shipping, insurance, and reasonable additional charges for complying with any special requirements of Buyer, all of which shall be the responsibility of the Buyer. Seller shall have the right to invoice separately any such tax or charge as may be imposed at a later time. Buyer agrees to indemnify and save Seller harmless for any such taxes or charges.

(7) PRICE CHANGES - Price is firm when goods are in stock and prompt delivery is authorized (and unless Seller specifically agrees in writing to the contrary, Seller shall not be required to regard a delivery date of more than 30 days following the date of the order as prompt). Pricing for goods with scheduled deliveries will be firm for thirty calendar days after receipt of order.

(8) TAXES - All taxes and other governmental charges upon the production, sale or use of the goods, to the extent required or not forbidden by law to be collected by Seller from Buyer, shall be paid by Buyer to Seller unless Buyer furnishes Seller with exemption certificate acceptable to taxing authorities.

(9) WARRANTIES - Seller warrants to Buyer that Seller will correct by replacement any defects (or if Seller so elects, repair any defects) in the goods of material or workmanship which may develop under normal and proper use during the period of 1 year from the date of shipment by Seller. This warranty will not extend to goods altered or repaired by anyone other than Seller or its authorized representative. (Electronic capacitors: Seller's acceptable quality levels shall determine whether a defect in a sample extends to the entire shipment. Capacitors will not be considered defective if they substantially fulfill the performance characteristics in Seller's literature and specifications.) THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OF MERCHANTABILITY, FITNESS FOR PURPOSE AND ANY OTHER TYPE WHETHER EXPRESS OR IMPLIED.

(10) REMEDIES AND LIMITATION OF LIABILITY - In the event Buyer claims Seller has breached any of its obligations under the Contract, whether of warranty or otherwise, Seller may request the return of the goods and tender to Buyer the purchase price theretofore paid by Buyer, and, in such event, Seller shall have no further obligation under the Contract except to refund such purchase price upon redelivery of the goods. If Seller so requests the return of the goods, the goods shall be redelivered to Seller in accordance with Seller's instructions and at Seller's expense. Redelivery by Buyer will be excused when the goods have been destroyed or are otherwise unavailable for return for causes beyond the Buyer's reasonable control. The remedies obtained in this Section 10 and the preceding Section 9 shall constitute the sole, exclusive and only remedies of Buyer against Seller for breach of any of Seller's obligations under the Contract relating to the quality or performance of (or any defect in) any of Seller's goods, whether such obligations are based on warranty or otherwise. IN NO EVENT SHALL SELLER BE LIABLE FOR PUNITIVE, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (including, but not limited to, loss of revenue or profit, loss of use of the products or any equipment, damage to associated equipment, cost of capital, cost of substitute products, downtime costs, replacement power, or claims of Buyer's customers for such damages or any other damages). ALL CLAIMS WITH RESPECT TO THE PURCHASE AND USE OF THE GOODS, WHETHER BASED ON CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE MUST BE MADE WITHIN TWELVE (12) MONTHS OF THE ACCRUAL OF THE CAUSE OF ACTION. All limitations of liability provisions in this Contract shall apply to any and all claims or suits or other litigation brought against Seller, including any claims based upon negligence, breach of contract, breach of warranty, strict liability, or any other legal theories upon which liability may be asserted against Seller.

Buyer is placed on notice that Seller's prices are based upon the limitation of liability clauses contained in this Contract; and Seller shall not, in any event, be liable on any claim for damages arising out of or connected with this Contract or the manufacture, sale, delivery or use of any goods in an amount exceeding the purchase price of the Seller's goods specifically involved in such claim.

Seller shall not be liable for failure to perform its obligations under this Contract resulting directly or indirectly from or contributed to by acts of God, acts of Buyer, civil or military authority, government priorities, fires, strikes or other labor disputes, accidents, floods, epidemics, war, riot, delays in transportation, lack of or inability to obtain raw materials, components, labor, fuel or supplies, or other circumstances beyond Seller's reasonable control, whether similar or dissimilar to the foregoing.

If Seller, without separate compensation, furnishes Buyer with information, advice or other assistance concerning any product or any system or equipment in which any such product may be installed, including information, advice on installation or fusing, the furnishing of such advice or assistance will not subject Seller to any liability, whether in negligence, contract, warranty, strict liability or otherwise, and Buyer



agrees to hold Seller harmless and indemnify Seller from any liability in connection therewith and from all costs related thereto, including, without limitation, attorneys' fees and expenses, expert witness fees and expenses, and court costs.

(11) PATENTS - Seller shall indemnify and hold Buyer harmless from all damages, liabilities and costs suffered or incurred by Buyer as a result of any claim or lawsuit alleging that the goods sold (as distinguished from repaired) pursuant hereto infringe any United States Letters Patent provided, however, that if the goods are manufactured in accordance with specifications furnished by Buyer and are not part of Seller's standard product line, Buyer agrees to indemnify and hold Seller harmless from any such claim or lawsuit and from all costs and damages related thereto or incurred by Seller in connection therewith (including, without limitation, attorneys' fees and expenses, expert witness fees and expenses, and court costs), provided further that:

- (a) Buyer give prompt notice to Seller of any such claim.
- (b) Seller shall have the exclusive charge of the defense or settlement of any such claim or lawsuit at its sole cost and expense, and
- (c) Seller shall have the right to eliminate any alleged infringement by procuring rights under the governing patent or by modifying the goods so that they will not infringe or, at Seller's option, to take back the goods sold or any infringing portion thereof and refund to Buyer the price paid therefore.

Seller's indemnity does not apply to any claimed infringement arising from use of any of the goods in combination with other items not delivered hereunder where such infringement would not have occurred from the use of the goods alone. Except as provided in this paragraph, Seller makes no warranty that the goods will be delivered free from any claims of patent infringement of any third party.

(12) GOVERNING LAW - This Contract shall be governed by the internal laws of the State of Delaware (and not the conflict of law provisions of that State); and the Buyer accepts the jurisdiction and venue of the U.S. District Courts sitting in any U.S. State from which the Buyer's order of the Seller's goods is acknowledged or processed or from which any of the Seller's subject goods are shipped with respect to any matter related to this Contract or any goods sold under this Contract. The U.N. Convention on Contracts for the International Sale of Goods and the UN Convention on the Limitation Period in the International Sale of Goods, as amended, shall not apply to this Contract or any sale or other matter related to this Contract.



(13) FOR ALUMINUM ELECTROLYTIC CAPACITORS, CAUTION - Personnel injury or property damage may result from a capacitor explosion or the expulsion of electrolyte due to mechanical or electrical disruption of the capacitor. Contact with liquid or vapor is to be avoided. In the event of contact with the skin or eyes, or accidental oral ingestion, action may be taken as follows:

Emergency treatment is as follows:

- Skin Contact: May result in irritation. Flush and wash thoroughly with soap and water immediately.
- Eye Contact: Contact lenses must be removed at once. Immediately flush the open eye(s) with large amounts of water and seek immediate medical attention.
- Oral Ingestion: As an interim emergency measure, administer warm water or milk to rinse the mouth. Do **NOT** induce vomiting unless directed by medical personnel, and seek immediate medical attention.
- Vapors: Avoid inhalation of vapors. Ventilate area thoroughly and go to fresh air.

For further questions and/or application concerns consult the “Application & Safety Precautions Guidelines”.

(14) EXPORT RESTRICTIONS - Buyer represents and warrants to Seller that Buyer is not restricted under the terms of any U.S. custom or export law or regulation from receiving any product to be purchased from Seller; and Buyer agrees that none of the products to be purchased by Buyer from Seller will be exported or re-exported, directly or indirectly (except in full compliance with all U.S. custom and export control laws and regulations) to any country or person that Buyer knows or has reason to know is restricted from receiving such goods by any U.S. custom or export control law or regulation. Furthermore, the Buyer will refrain from acquiring, using, or transmitting any product or technology of Seller to the extent that such acquisition, use or transmission would violate any U.S. law or regulation; and Buyer shall not directly or indirectly sell, transfer, provide, deliver or transmit (except in full compliance with all U.S. custom and export control laws and regulations) any such products or technology to any persons, countries or organizations that the Buyer knows or has reason to know are subject to denial of U.S. export privileges.

(15) COMPLIANCE - Buyer represents and warrants to Seller that:

- (a) Buyer's acquisition, application, use, transfer, disposal and other disposition of each product acquired by Buyer from Seller will be in accordance with all applicable laws and regulations, including, without limitation, all applicable environmental laws or regulations;
- (b) Buyer shall use the goods only for the purposes and in the manner for which they were designed and supplied; train all persons likely to use or come into contact with the goods appropriately and supply them with copies of applicable literature supplied by Seller;
- (c) Buyer shall provide clear warning of any hazards to all third parties who use or may be affected by or rely upon the goods and provide notice of the limitations of their effectiveness; and adopt and comply with safe working practices.
- (d) Buyer shall not remove or obscure any warning notices displayed on the goods and shall make sure that any third party to whom the goods are supplied agrees not to remove or obscure such warning notices and shall take such steps as are reasonable to enforce such agreement;
- (d) Buyer shall promptly comply with any safety recommendation made to it in respect of the goods (including recall of them) and shall assure compliance by all relevant persons and shall pay Seller's reasonable charges for additional or replacement parts (including installation costs) supplied by Seller for this purpose; and
- (e) Buyer shall indemnify Seller against any loss, damage, cost or liability in relation to any breach of Buyer's obligations under any Contract.

(16) INTERPRETATION - The title of this Contract and section headings appearing in this Contract are for convenience of reference only and shall not be deemed to limit the scope or substance of this Contract or any section of this Contract. All notices or other communications under or relating to the Contract shall be in writing in English. Any translation will be for guidance only.