

## Terms and Conditions of Purchase – E/G Electro-Graph, Inc.

1. **General**  
This Purchase Order (including plans, specifications, regulations, and other documents incorporated by reference) contains the entire agreement of the parties, and Buyer expressly limits acceptance to the terms stated herein. Any additional or different terms proposed by Seller are objected to and are hereby rejected unless expressly accepted by Buyer in writing. Shipment of any goods and/or rendering of any services pursuant to this Purchase Order shall be deemed to be an acceptance by Seller of the precise terms and conditions hereof. Failure of any party to enforce its rights under this Purchase Order shall not constitute a waiver of such rights or any other rights under this Purchase Order or otherwise.
2. **Delivery**  
Time is of the essence. Delivery shall be made according to the INCOTERM and any other terms specified on the face of the Purchase Order. Unless otherwise provided in the Purchase Order, delivery in whole or in part shall not be made more than ten (10) days prior to required delivery dates. Buyer may return earlier deliveries at Seller's risk and expense. Seller shall comply with the delivery schedule but shall not make material or production commitments in advance of such time as Seller reasonably believes necessary to meet the schedule without prior written approval by Buyer.
3. **Substitutions**  
Seller shall not substitute materials without written consent of Buyer.
4. **Quantity**  
No variations in quantity shall be accepted for payment except as authorized in writing by Buyer. Over shipments may be returned to Seller at Seller's expense, which shall include a reasonable cost for Buyer's handling, or retained by Buyer at no additional cost. To the extent that goods covered by this Purchase Order are produced in accordance with drawings or specifications which are proprietary to Buyer or to Buyer's customer, Seller shall not manufacture or retain for the purpose of display or otherwise any more such goods, or parts therefore, than are required to be delivered under this Purchase Order. Any such excess goods, or parts therefore, shall be delivered free of charge to Buyer at the designated delivery point at Seller's risk and expense unless otherwise agreed in writing.
5. **Changes**  
Buyer may at any time, by written order, make changes or additions within the general scope of this Purchase Order, in any one or more of the following: (i) drawings, designs, statement or work, or specifications; (ii) method of shipment or packing, (iii) place of inspection, delivery or acceptance; (iv) quantities, where reasonable, and (v) delivery schedules where reasonable.  
  
If any such change causes an increase in the cost of, or the time required for, performance of this Purchase Order, Seller shall notify Buyer in writing immediately and an appropriate equitable adjustment will be made in the price or time of performance, or both, by written modification of this Purchase Order. Any claim by Seller for such adjustment must be asserted within fifteen (15) days, or such other period as may be agreed on in writing by the parties, after Seller's receipt of notice of the change. Nothing contained in this paragraph shall excuse Seller from proceeding with the contract as changed.
6. **Warranty**  
Seller warrants that goods covered by this Purchase Order will conform to the design and specifications and to drawings, samples, or other descriptions referred to in this Purchase Order, will be free from defects in material and workmanship, and, to the extent that Seller knows or has reason to know of the purpose of which the supplies are intended, will be fit and sufficient for such purpose. Seller further expressly warrants that all services will be performed in a workmanlike, efficient and safe manner and will conform to standards generally accepted in the relevant trade or industry. The warranties contained in this paragraph shall run to Buyer and its customers.
7. **Breach of warranty**  
Buyer, notwithstanding any prior acceptance, at its option, may reject and return for credit or require prompt rework of any goods or services, which are defective in material or workmanship or otherwise fail to conform to all applicable specifications. All goods furnished under this Purchase Order may be subject to inspection at destination, notwithstanding any previous source inspection. Buyer may, in addition to any other available rights or remedies, prepare for shipment and ship the goods to Seller for credit or for rework to correct any defect, at Buyer's option and the expense of any such action, including transportation both ways, if any, shall be borne by Seller. If Seller is unable to tender goods and/or render services meeting the specifications, Buyer may cancel this Purchase Order without further obligation with respect to the nonconforming goods and/or services. Further, in cases of non-conformity, Buyer may withhold payment and obtain replacements or reworking of goods and/or services, charging Seller for the costs incurred.
8. **Buyer's information**  
Any drawings, specifications, processes, samples, software photographs, production plans, testing results or other engineering and manufacturing information furnished by Buyer shall remain Buyer's property, shall be duplicated only as authorized in writing by Buyer, and shall be returned to Buyer upon request or when no longer needed for performance of this Purchase Order. Except as may be necessary for performance of this Purchase Order, Seller shall not use or disclose furnished information concerning Buyer, its operations or its products without the prior written consent of Buyer.
9. **Liens**  
Seller shall deliver the goods covered by the contract free of all liens, claims, and encumbrances in favor of third parties.
10. **Assignment**  
Neither this Purchase Order nor any payments hereunder are assignable or transferable without Buyer's written approval.
11. **Risk of loss**  
Except as specifically provided in this Purchase Order, (a) Seller shall be responsible for goods covered by this Purchase Order until final inspection and acceptance thereof by Buyer, and (b) Seller shall bear all risks as to rejected goods or goods requiring rework after notice of rejection notwithstanding any prior acceptance.
12. **Invoice and payment**  
A separate invoice shall be issued for each shipment. Unless otherwise specified in this Purchase Order, no invoice shall be issued prior to shipment of goods and no payment will be made prior to receipt of goods and correct invoice. Payment due dates, including discount periods, will be computed from the date of receipt of goods or date of receipt of correct invoice (whichever is later) to date Buyer's check is issued. Unless freight and other charges are itemized, any discount taken will be taken on full amount of invoice.
13. **Federal, state, and local taxes**  
Except as may be otherwise provided in this Purchase Order, the price includes all applicable federal, state, and local taxes and duties.
14. **Compliance with laws and code of conduct**  
Seller warrants and represents that it shall comply with all laws, regulations or government orders concerning the goods and/or services to be provided, including any national, international, state or local laws dealing with the environment, health and safety, labor and employment, insurance, transportation or storage of hazardous materials, and import/export or customs requirements, including the manufacture and shipment of goods purchased or returned hereunder. In particular, by accepting this Purchase Order, Seller covenants that it shall comply with the rules and regulations applicable to the Fair Labor Standards Act as amended, the Occupational Safety and Health Act (OSHA) as amended, and the Toxic Substances Control Act as amended. Further, Seller agrees to adhere to and act in a manner consistent with the principles and expectations set forth in the Plansee Code of Conduct and Supplier Policy, both of which are available upon request or at [www.plansee.com](http://www.plansee.com) > About us > Purchasing.

In the event that Seller or the goods/services do not conform with such laws, regulations and policies and Buyer is penalized for such nonconformance, Seller shall indemnify Buyer, its affiliates and customers against all penalties, costs, and expenses including interest and attorneys' fees.

15. **Audits**  
Seller shall allow Buyer or its customer(s), during normal business hours, to access and to inspect all facilities concerning the performance of the Purchase Order, including audits or inspections of the facilities, equipment, testing, records, work processes and completed goods manufactured.
16. **Applicable law**  
The rights and obligations of the parties to this contract shall not be governed by the provisions of the United Nations Convention on Contracts for the International Sale of Goods, but instead by the laws of the State of California, including its provisions of the Uniform Commercial Code, but not its conflict of laws provisions.
17. **Disputes**  
Any dispute arising under this Purchase Order, which is not settled by agreement of the parties, may be settled by appropriate legal proceedings. Pending any decision, appeal, or judgment in such proceedings or the settlement of any dispute arising under this Purchase Order, Seller shall proceed diligently with the performance hereof in accordance with the decision of Buyer.
18. **Bankruptcy, etc.**  
If a receiver for Seller is appointed, if an assignment for the benefit of creditors is made by Seller or if an agreement between Seller and its creditors generally is entered into providing for extension or composition of debt. Buyer may at its sole option terminate this Purchase Order without further liability on the part of Buyer except as to deliveries previously made and except as to goods already identified to this Purchase Order, which shall be completed and delivered within a reasonable time in accordance with all terms of this Purchase Order. After any order for relief under the Bankruptcy Code is entered against Seller, Seller must assume or reject this Purchase Order within sixty (60) calendar days after the order for relief is entered. If Seller does not assume this Purchase Order with such sixty (60) day period, Buyer may at its sole option terminate this Purchase Order without further liability on the part of Buyer except as to deliveries or completion of work previously made and except as to goods identified to this Purchase Order, which shall be completed and delivered within a reasonable time in accordance with all terms of this Purchase Order.
19. **Termination for convenience**  
Buyer may terminate all or any part of this Purchase Order at any time upon five (5) days written notice to Seller. Thereafter, Buyer will pay Seller's costs properly incurred prior to the date of termination.
20. **Government subcontract**  
In the event that this Purchase Order bears a government contract number or reference, Seller agrees to comply with all pertinent provisions or flow-down clauses of said contract and any applicable Presidential directives and executive orders. All said provisions, flow-down clauses, and directives and executive orders as amended are herein incorporated by reference, which include inter alia the rules, regulations, and orders applicable to (a) Equal Employment Opportunity (E.O. 11246); (b) Affirmative Action for Workers with Disabilities (the Vocational Rehabilitation Act of 1973, 29 U.S.C. 793); and (c) Equal Opportunity for Disabled or Eligible Veterans (the Vietnam Era Veteran's Readjustment Assistance Act of 1974, 38 U.S.C. 4212a). **IN PARTICULAR, SELLER SHALL ABIDE BY THE REQUIREMENTS OF 41 CFR §§ 60-1.4(a), 60-300.5(a) AND 60-741.5(a) AS APPLICABLE. THESE REGULATIONS PROHIBIT DISCRIMINATION AGAINST QUALIFIED INDIVIDUALS BASED ON THEIR STATUS AS PROTECTED VETERANS OR INDIVIDUALS WITH DISABILITIES, AND PROHIBIT DISCRIMINATION AGAINST ALL INDIVIDUALS BASED ON THEIR RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN AND REQUIRE THAT COVERED PRIME CONTRACTORS AND SUBCONTRACTORS TAKE AFFIRMATIVE ACTION TO EMPLOY AND ADVANCE IN EMPLOYMENT INDIVIDUALS WITHOUT REGARD TO RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, PROTECTED VETERAN STATUS OR DISABILITY.** Further, Seller agrees to comply, as applicable, with the employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A and the veterans' employment reporting requirements under 41 CFR §61-300-10.
21. **Patent or copyright indemnity**  
Seller shall, at its sole expense, defend any suit or proceeding brought against Buyer so far as such suit shall be based on a claim that any goods or any part thereof furnished under this Purchase Order constitutes an infringement of any patent or copyright granted under laws of the United States or any other country, if notified promptly in writing and given authority, information and assistance (at Seller's expense) necessary for the defense of the suit or proceedings, and Seller shall pay all damages and costs awarded therein. If the use of such goods or part thereof is enjoined in such suit, Seller shall, at its own expense and at its option, either procure for the Buyer the right to continue using such goods or part thereof, or replace the infringing goods or part thereof with a noninfringing equivalent or modify it so it becomes noninfringing, or upon showing inability to do any of the foregoing, shall remove such goods or part thereof and refund the purchase price and the transportation and installation costs thereof.
22. **Third party claims, indemnification, and insurance.**  
Seller agrees to indemnify, hold harmless and defend Buyer, its officers, agents and employees, parents, subsidiaries, customers, successors and assigns against any loss, cost, damage or expense (including attorney's fees) arising out of any claim or charge for personal injury, death or property damage or loss asserted against any of the foregoing parties and attributable to (i) the sale and delivery of goods and/or services to Buyer or the use thereof by Buyer or others, unless resulting from the sole negligence of Buyer, (ii) from any other breach of Seller's obligations hereunder or (iii) from any act or omission of Seller, its agents, employees, or subcontractors. This indemnification shall be in addition to the warranty and insurance obligations of Seller. To the extent that Seller's agents, employees or subcontractors enter upon premises occupied by or under the control of Buyer, in the course or performance hereunder, Seller shall take all necessary precautions to prevent the occurrence of any injury, including death, to any person, or any damage for any property, arising out of any acts or omissions of such agents, employees or subcontractors. In addition, Seller agrees to carry adequate insurance covering all work and activities hereunder, as required by law and as is common practice in Seller's area of business, including but not limited to employee liability and worker's compensation, general liability, and professional liability insurance.