

**TERMS AND CONDITIONS OF SALE  
NORTHROP GRUMMAN SYNOPTICS  
(Hereinafter known as Synoptics)****1. ACCEPTANCE OF ORDERS**

No purchase order shall be binding unless or until accepted in writing by an authorized employee of Synoptics. Any terms or conditions contained in the purchase order or other instrument of Buyer, which are in addition to or inconsistent with any of the terms or conditions contained in these Terms and Conditions of Sale, shall not be binding on Synoptics and shall not apply unless specifically agreed to in writing by an authorized employee of Synoptics.

This acceptance sets forth the entire understanding between the parties with reference to the subject matter hereof. All clauses contained in laws and regulations have been considered by the parties hereto, and those clauses not included are deemed to have been specifically considered and excluded, by mutual agreement of the parties.

**2. PRICES**

Unit prices apply only to the specific quantities and delivery schedule shown. Any variation in quantity, specifications and/or rate of delivery may necessitate a revision in unit price. The unit prices set forth herein do not include any contingencies allowance to cover the possibility of increased costs to Synoptics resulting from increases in the prices of base metals as published in the "American Metal Market" during the period from the date of Synoptics quotation and/or order acceptance to the date of shipment of goods; Synoptics reserves the right to make an equitable adjustment in the unit price reflecting said change upon prior notice to Buyer and to invoice accordingly. Prices shown do not include Federal, State or Local taxes. Applicable taxes will be included at the time of invoice. Selling prices do not cover the cost of environmental testing unless specifically so stated.

**3. CHANGES**

Purchase order changes of Buyer, affected subsequent to acknowledgment of Buyer's purchase order by Synoptics, will not be considered effective until mutual agreement has been reached in writing between Buyer and Synoptics concerning the effect of said changes on price, delivery, or other terms and conditions of sale.

**4. DELIVERY**

The delivery date is our best estimate of the time at which material will be shipped from our factory, but Synoptics assumes no liability for loss, damage, or consequential damages due to delays. In the event of any such delay or failure in performance, Synoptics shall have such additional time within which to perform its obligations under this purchase order as may reasonably be necessary under the circumstances; and Synoptics shall also have the right, to the extent necessary in Synoptics' reasonable judgment, to apportion fairly among its various customers in such manner as Synoptics may consider equitable Synoptics' products then available for delivery. If, as a result of any such contingency, Synoptics is unable to perform under this purchase order in whole or in part, then, to the extent that it is unable to perform, this purchase order shall be deemed terminated without liability to either party, but shall remain in effect as to the unaffected portion of this purchase order, if any.

**5. ACCEPTANCE**

All products ordered hereunder shall be subject to final inspection and to acceptance by Buyer within thirty (30) days after delivery to Buyer. If the products ordered hereunder do not meet the specifications or otherwise do not conform to the requirements of this purchase order, Buyer shall have the right to reject such non-conforming products by providing Synoptics written notice of non-conformance within thirty (30) days after delivery. To the extent that any product is not rejected in writing within thirty (30) days after delivery, such product shall be deemed accepted hereunder. Any such acceptance or deemed acceptance resulting from Buyer's failure to provide written notice of rejection within thirty (30) days after delivery shall be definitive and final in all cases, absent fraud. Following such acceptance or deemed acceptance, Buyer's only remedy for defective products shall be as provided in Paragraph 6 Warranty. Products that have been delivered and rejected may be returned to Synoptics for repair or replacement, as Buyer may direct.

**6. WARRANTY**

Items sold by Synoptics are warranted only as follows: Synoptics will correct either by repair or replacement, at our option, any defect of material or workmanship which develops within 90 days after delivery of the item to the original purchaser, provided that investigation and factory inspection by Synoptics discloses that such defect developed under normal and proper use. All items claimed defective must be returned to Synoptics (subject to the terms of Paragraph 8 below), transportation charges prepaid, and will be returned to Buyer with transportation charges collect, unless investigation proves the part to be defective and that Synoptics is responsible for the defect. In that case, Synoptics will pay all transportation charges. Synoptics makes no warranty concerning components or accessories not manufactured by it. However, in the event of failure of such a part, Synoptics will give reasonable assistance to Buyer in obtaining from the manufacturer whatever adjustment is reasonable in light of the manufacturer's own warranty. Synoptics will not assume expense or liability for repairs made outside the factory by other than Synoptics employees without the written consent of Synoptics. Synoptics is not responsible for damage to any associated equipment, nor shall we be held liable for loss of profit or other special damages. This warranty is in lieu of other warranties express or implied.

**NOTE: THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, CONDITIONS OR REPRESENTATIONS, EXPRESSED, IMPLIED, STATUTORY OR OTHERWISE INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, WHETHER ARISING BY LAW, CUSTOM, CONDUCT OR USAGE OF TRADE, AND THE RIGHTS AND REMEDIES PROVIDED HEREIN ARE EXCLUSIVE AND IN LIEU OF ANY OTHER RIGHT OR REMEDIES. SYNOPTICS SHALL NOT BE RESPONSIBLE FOR THE REMOVAL OF THE DEFECTIVE PRODUCTS FROM ANY ITEM PRODUCED BY BUYER OR FOR ANY COSTS OR EXPENSES INCURRED, DIRECTLY OR INDIRECTLY BY BUYER IN CONNECTION WITH THE REMOVAL OF THE DEFECTIVE PRODUCTS FROM ANY ITEM PRODUCED BY BUYER. THIS WARRANTY SHALL NOT BE VALID IF THE PRODUCTS HAVE BEEN SUBJECTED TO ABUSE, MISUSE, ACCIDENT, ALTERATION, NEGLIGENCE, UNAUTHORIZED REPAIR, OR EXPOSURE TO CONDITIONS BEYOND APPLICABLE ENVIRONMENT.**

**7. REMEDIES**

IN NO EVENT SHALL SYNOPTICS BE LIABLE FOR COVER DAMAGES, BEYOND THAT EXPRESSLY SET FORTH UNDER THE ABOVE INDICATED WARRANTY PARAGRAPH. SPECIFICALLY, SYNOPTICS SHALL NOT BE LIABLE FOR ANY DAMAGES, DIRECT OR INDIRECT COSTS, EXPENSES, COVER REMEDIES, OR ANY OTHER FORM OF LOSS ALLEGED BY BUYER, IRRESPECTIVE OF ANY DELAY ON DELIVERY, FAILURE TO DELIVER, OR ALLEGED NON-PERFORMANCE OR MISPERFORMANCE ON SYNOPTICS PART. NOTWITHSTANDING ANY OTHER PROVISION HEREIN, SYNOPTICS' LIABILITY ON ALL CLAIMS OF ANY KIND (EXCLUDING BODILY INJURY OR DEATH), WHETHER BASED ON CONTRACT, INDEMNITY (INCLUDING, WITHOUT LIMITATION, INTELLECTUAL PROPERTY INDEMNIFICATION), WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, FOR ANY LOSS OR DAMAGE ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM THIS ORDER, OR FROM THE PERFORMANCE OR BREACH THEREOF, OR FROM ALL SERVICES AND PRODUCTS COVERED BY OR FURNISHED UNDER THIS ORDER, SHALL IN NO CASE EXCEED THE PRICE OF THE SPECIFIC SYNOPTICS SERVICE OR PRODUCT WHICH GIVES RISE TO THE CLAIMS. IN NO EVENT WILL SYNOPTICS BE LIABLE FOR SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, INCLUDING, BUT NOT LIMITED

TO, LOSS OF PROFITS OR REVENUE, OR CLAIMS OF CUSTOMERS OF BUYER FOR SUCH DAMAGES.

**8. CLAIMS AND REJECTED MATERIAL**

No products may be returned without Synoptics' permission in writing. After receiving factory authorization, material requiring repair or replacement should be sent prepaid to the factory, accompanied by a purchase order or letter stating as completely as possible the defects and the conditions under which the reported defects occurred. Debit memoranda will not be honored until after responsibility has been determined.

**9. SPECIFICATIONS**

Weight, dimensions and specifications shown in sales literature are not guaranteed. Detailed control drawings are available on request. Synoptics reserves the right to make design changes at any time without incurring any obligation to incorporate these changes in units previously purchased or to continue to supply obsolete items. Synoptics is not responsible for typographical or clerical errors made in any quotations, orders or publications. All such errors are subject to correction. NOTE: WE AGREE TO MANUFACTURE ALL ITEMS IN ACCORDANCE WITH THE PASSIVE SPECIFICATIONS INDICATED BY YOU. WE ASSUME NO LIABILITY FOR ACTIVE OUTPUT PERFORMANCE DUE TO THE UNIQUE PARAMETERS INHERENT TO YOUR SYSTEM DESIGN.

**10. TERMS OF PAYMENT**

Unless stated differently on the reverse side of this document, terms are net thirty (30) days from date of invoice, with no discount allowed for earlier payment. In cases where credit is not established satisfactorily, or financial information is not available, the terms are cash in advance, credit card, or C.O.D., at Synoptics' option. If Buyer becomes delinquent in payments to Synoptics, or refuses to accept C.O.D. shipments, then Synoptics has the right, in addition to any other remedy to which it may be entitled in law or equity, to cancel the sales order, refuse to make further deliveries, and declare due and payable immediately all unpaid amounts for goods previously delivered to Buyer (also subject to the terms of Paragraph 16 below). Each shipment shall be considered a separate and independent transaction and payment thereof shall be made accordingly.

**11. SHIPMENTS**

All shipments are made F.O.B. point of shipment (unless otherwise specified) and the costs of boxing and packing for commercial shipment is included in the quoted prices. When special domestic or export packing is specified, involving greater expense than that customarily incurred, a charge may be made to cover such extra expenses. When ordering, method of shipment should be clearly stated. Unless otherwise specified we will use the best mode of transportation available. Reasonable care is exercised in packing our products for shipment and we assume no responsibility for delay, breakage or damage after having made delivery in good order to the carrier. Shipments will not be insured unless a specific request is made by Buyer, in which case, a charge will be made to pay for the costs of this coverage. In the event that any items are received by Buyer in a damaged condition, Buyer should cease unpacking such items, request an immediate inspection by the common carrier responsible for delivery, and furnish the carrier's written report to Buyer's insurer and to Synoptics. FAILURE OF BUYER TO COMPLY WITH THIS PARAGRAPH 11 SHALL VOID THE WARRANTY REFERRED TO IN PARAGRAPH 6. All claims for breakage and damage should be made to the carrier, but at Buyer's request. Synoptics will render all possible assistance in securing satisfactory adjustment of such claims.

**12. EXPORT REGULATIONS**

- (a) Buyer agrees that it shall not sell, transfer, or deliver, directly or indirectly, any part or portion of the Products or related documentation supplied by SYNOPTICS pursuant to this purchase order to any person or organization in any country where such sale, transfer, or delivery by Buyer would be prohibited

by law or regulation now or hereafter in effect which imposes any restrictions on United States trade with foreign countries.

(b) SYNOPTICS' obligations hereunder are conditioned upon SYNOPTICS (or Buyer) obtaining, from the appropriate agencies or departments of the United States Government, all export licenses and other governmental permits that may be required by law to enable SYNOPTICS to export the products, services and related documentation supplied by SYNOPTICS pursuant to this purchase order. SYNOPTICS agrees to take all reasonable steps to obtain such licenses and permits; provided, that Buyer shall reimburse SYNOPTICS for any costs SYNOPTICS expends in connection with obtaining such licenses and permits. In the event that the required approvals are not granted, withdrawn, or not extended, then either party may terminate this purchaser order and such termination for purposes of determination of costs shall be considered caused by Excusable Delay as defined in Paragraph 16 of this purchase order.

(c) Buyer shall indemnify and save harmless SYNOPTICS and its affiliated companies from and against any and all damages, liabilities, penalties, fines, costs, and expenses, including attorneys' fees, arising out of claims, suit, allegations or charges of Buyer's failure to comply with the provisions of this Paragraph 12. Any failure of Buyer to comply with the requirements or any breach of the representations contained in this Paragraph 12 shall be a material breach of this purchase order.

### **13. SPECIAL TOOLING**

Special tooling, which is totally paid for as a separate item on an order, shall become the property of Buyer. During its use at Synoptics, special tooling shall be held for the exclusive use of Buyer. Synoptics shall maintain special tooling in its normal practice. To the extent practicable, tooling shall be identified by appropriate stamps, tags or other marks. Property control records will be maintained in accordance with standard Synoptics practice. Unless otherwise stated on the face of this document, prices shown do not include the costs of transportation, storage beyond life of the order, or special identification and packaging. Unless otherwise agreed in writing between Synoptics and Buyer at the time of the order, Synoptics will not be responsible for special tooling not recalled by Buyer upon delivery of all work called for in the contract.

### **14. INTELLECTUAL PROPERTY INDEMNIFICATION**

(a) In the event any product to be furnished under this purchase order is not to be made in accordance with drawings, samples or manufacturing specifications designated by Buyer, but rather is the design of Synoptics, Synoptics agrees that it shall, at its own expense and at its option, defend or settle any claim, suit, or proceeding brought against Buyer or any customer of Buyer, based on an allegation that the product furnished under this purchase order constitutes a direct infringement of any claim of any patent, mask work, copyright or any other intellectual property right. This obligation shall be effective only if Buyer shall have made all payments then due and if Synoptics is notified of said allegation promptly in writing and given authority, information, and assistance for the settlement or defense of said claim, suit, or proceeding. Synoptics shall pay all damages and costs assessed in such suit or proceedings. In the event of a final adjudication by a court of competent jurisdiction that its product or any part thereof infringes or violates any third party intellectual property right or if the use or sale thereof is enjoined, or if the provisions of any negotiated settlement agreement prohibit the use of the product, Synoptics shall at its sole option and its own expense, either: (a) procure for Buyer the right to continue using the product; or (b) replace it with a substantially equivalent non-infringing product; or (c) modify it so it becomes non-infringing but substantially equivalent; or (d) if none of the above is reasonably available, terminate the Buyer's right to use the product, accept the return of the product from Buyer, and return to the Buyer the pro rata amount of the price originally paid by Buyer to Synoptics for the product supplied by Synoptics, based on a three year life.

The foregoing indemnity does not apply to the following: (1) infringement by a combination of products furnished under this purchase order with other products not furnished hereunder unless Synoptics is a contributory infringer; (2) infringement resulting from changes or modifications made to or from the product by the Buyer; and (3) any settlements of a claim, suit, or proceeding made without Synoptics' written consent.

The foregoing states the entire liability of Synoptics with respect to infringement or violation of third party intellectual property rights in connection with products furnished under this purchase order.

(b) In the event any product to be furnished under this purchase order is to be made in accordance with drawings, samples or manufacturing specifications designated by Buyer, Buyer agrees to defend, indemnify and hold Synoptics harmless to the same extent and subject to the same requirements as set forth in Synoptics' indemnification of Buyer as set forth in (a) above.

**15. TERMINATION**

Any order, once accepted by Synoptics, (i.e., to which an acknowledgment has been forwarded to Buyer by Synoptics) cannot be terminated by Buyer, (unless Synoptics has previously expressly indicated in writing its inability to provide the item within the specifications applicable to the purchase order), without provision of cancellation costs to Synoptics. Said cancellation costs shall be such as shall fully reimburse Synoptics for reasonable costs incurred to date of termination of the order, including all applicable material and labor costs, applicable administrative costs, and any loss of profit resulting from placing Buyer in backlog of orders entered.

**16. EXCUSABLE DELAY**

For the purposes hereof, "Excusable Delay" shall mean causes proved to be beyond the Buyer's or Synoptics' reasonable control including, without limitation, an act of God, natural disasters, fire, floods, explosions or earthquakes, any act of the government of the Buyer or Synoptics, war, insurrection or riots, or strikes affecting Synoptics or the Buyer and freight embargoes. If Synoptics has knowledge of an Excusable Delay then Synoptics shall immediately notify the Buyer in writing. The anticipated duration and causes of the Excusable Delay as well as remedial actions to be taken by Synoptics to prevent delays in delivery shall be given in writing within 30 days of the initial notification. The Buyer may wholly or partly suspend or postpone any of its obligations under this purchase order by promptly notifying Synoptics in writing in the event of Excusable Delay. Such suspension or postponement may continue until the circumstances of the Excusable Delay have been overcome. When the cause of the delay has ceased to exist Synoptics shall promptly notify the Buyer of such fact and the actual delay to the delivery or other performance required under this purchase order. The parties shall negotiate a mutually acceptable revised delivery schedule, taking into account all the circumstances of the Excusable Delay. The time for completion shall be not be extended by a period greater than the agreed period of the "Excusable Delays". If any one or more delays in performance constituting an Excusable Delay exceeds a period of 3 months from the date of the contractual scheduled delivery in the purchase and the parties have not agreed upon a revised schedule for performance, the Buyer shall have the right to terminate any or all ordered but undelivered products or services without liability to either party (except as provided herein) and shall pay Synoptics its costs incurred up to the date of termination.

**17. TAXES**

Federal, State or Local taxes, if any, must be added to the net prices and will be shown as a separate item upon invoicing and shall be borne by Buyer.

**18. INSPECTION AND AUDIT**

Examination of Synoptics books and records is restricted solely to the Comptroller General of the United States to the extent authorized and required under public law.

**19. NO FURTHER OBLIGATIONS**

Buyer acknowledges that Synoptics is under no obligation to provide Buyer with any products or services other than those in the quantities specified herein. More specifically, Buyer acknowledges that Synoptics is under no obligation to agree to follow-on production work concerning the subject matter hereof and that no representations have been made by any employee or agent of Synoptics to the contrary. Further, Buyer agrees that any such commitment can be evidenced only by the execution by the authorized representatives of Synoptics and Buyer of an amendment hereof or a new supply agreement between Synoptics and Buyer.

## **20. NEGOTIATED TERMS**

All terms of this purchase order were negotiated between the parties at arm's length, recognizing the special needs, knowledge, and benefits of each party. The parties agree that in the event a dispute arises in connection with this purchase order, the terms contained in this purchase order shall be given their plain meaning, and that no term shall be construed in favor of one party over the other by virtue of one party having drafted a term in this purchase order.

## **21. ENTIRE AGREEMENT**

This purchase order contains the entire agreement between the parties, and no modification, amendment, revision, waiver or other change will be binding on Synoptics unless assented to in writing by Synoptics' authorized representative; provided, however, Buyer may request in writing any changes to the purchase order and Synoptics shall consider such request and provide written acceptance or rejection thereof within 10 Business days of receipt, such acceptance or rejection decision shall be in the sole discretion of Synoptics. Any oral or written representation warranty, course of dealing or trade usage not contained or referenced herein will not be binding on Synoptics. This purchase order shall be governed by the laws of the State of North Carolina applicable to contracts entered into and wholly to be performed in such jurisdiction without regard to its conflicts of laws provisions.

## **22. WAIVER OF JURY; JURISDICITON**

Synoptics and Buyer expressly acknowledge that by signing this purchase order they are giving up their respective right to a jury trial with respect to any claims regarding, relating to or arising out of this purchase order. Each party hereto irrevocably and unconditionally (i) agrees that any suit, action or other legal proceeding arising out of or in connection with this purchase order shall be brought exclusively in the United States District Court for the Western District, Charlotte Division, of North Carolina, or if such court does not have jurisdiction or will not accept jurisdiction, venue of any court of general jurisdiction in the County of Mecklenburg, North Carolina; (ii) consents to the jurisdiction and venue of any such court in any suit, action or proceeding; and (iii) waives any objection which such party may have to the laying of venue of any such suit, action or proceeding in any such court.

## **23. CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM (C-TPAT)**

(Clause is applicable to all non-domestic Customers and their freight handlers, brokers and forwarders). Synoptics supports the U.S. Customs and Border Protection (CBP) Customs-Trade Partnership Against Terrorism (C-TPAT) program. The C-TPAT program is a joint effort between CBP and the trade community to reduce the threat of terrorism by means of protecting the integrity of cargo imported into the United States. As a buyer to seller, your support of C-TPAT is critical to the realization of Seller's objectives and to the cooperative endeavor between U.S. exporters and CBP. Seller requires foreign customers of exported goods to scrutinize and, where necessary, develop sufficient security measures within their own supply chain. To the extent tat Buyer is a foreign customer of exported US goods, it agrees to scrutinize, based on risk, appropriate security measures to be implemented and maintained throughout the supply chain, such as transportation, conveyance, warehouse, broker, consolidator or other elements. The Buyer agrees to work with these business partners to ensure that pertinent security measures are in place and adhered to and, where necessary, develop sufficient security measures within its own supply chain. More information about C-TPAT can be found at [www.cbp.gov](http://www.cbp.gov). In particular, Buyer agrees to implement the C-TPAT Security Guidelines for Manufacturers found at the CBP website.