

**Würth Electronics ICS, Inc.**  
Intelligent Power & Control Systems  
7496 Webster Street  
Dayton, Ohio 45414.  
www.we-online.com



## TERMS AND CONDITIONS OF SALE

**1. PARTIES.** "Seller" refers to Würth Electronics ICS, Inc. "Buyer" refers to the purchaser identified on Würth Electronics ICS's proposal or order acknowledgement.

**2. TERMS AND ACCEPTANCE OF ORDER.** All orders and sales of goods manufactured or supplied by Seller (Goods) shall be subject to these terms and conditions. Acceptance by buyer is expressly limited to the terms and conditions contained herein and on Würth Electronics ICS proposal or order acknowledgement, and any information or documents expressly incorporated by reference. Seller hereby objects to any contrary, different or additional terms or conditions which may now, or in the future, appear on buyer's purchase order or other forms, or any alterations in the terms and conditions of this document, unless expressly agreed to in writing by Seller. This document or any other acknowledgment or confirmation by Seller shall not constitute an acceptance of Buyer's offer, but rather shall be deemed a counteroffer. If Seller's terms are not acceptable, Buyer shall immediately notify Seller of its objections and Buyer's failure to do so object, and its delivery of an acknowledgment or acceptance of the Goods, whichever occurs first, shall constitute Buyer's consent to the terms hereof. Any reference to Buyer's order or other communication is for convenience only and not an incorporation of the terms thereof unless expressly stated. In the event of any conflict between the terms set forth herein and on the face hereof, the latter shall control.

**3. QUOTATION.** Prices, payment terms, and dates of delivery referenced in Seller's quotations or offers are for informational purposes only and shall not be binding on Seller unless and until Seller has confirmed in writing its acceptance of an order placed by Buyer in accordance with the quotation. Unless expressly stated otherwise on the proposal or order acknowledgement, pricing is based on a firm commitment to the stated quantities of Goods. Any subsequent purchase order must include a binding commitment to the quantity shown in order to receive that price, and cannot be based on "anticipated" usage. Quotations or offers terminate if not accepted by the Buyer within sixty (60) days.

**4. PRICING, RISKS AND TRANSPORTATION.** Should the Buyer make changes to the purchase order, including, but not limited to, design changes, reduction in quantity, or an extension of the agreed delivery time, Seller reserves the rights to increase the price of the Goods to reflect any subsequent increase in the cost of materials or labor in the manufacture or delivery of the Goods. In addition, Buyer is obligated to take delivery of, and make payment for, all excess on-hand inventory or supplier-held inventory to which Seller becomes obligated, after acting in reliance on Buyer's order, even if that inventory may be standard parts that can be used elsewhere by the Seller.

The Goods shall be shipped F.O.B. Seller's plant. Prices include Seller's standard packaging. Unless expressly stated in writing, prices quoted do not include any additional costs, including, but not limited to, special packaging requirements, carriage and delivery costs, insurance, taxes, and costs associated with the importation/exportation of the Goods, which are the sole responsibility and expense of Buyer. Regardless of whether Seller assumes any of the aforementioned costs, all risk of damage, loss or theft shall be borne by Buyer.

Buyer shall notify Seller in complete detail as to shipping and delivery dates and places. Should Buyer's delivery instructions be delinquent, Seller shall have the right to designate the method and route of shipment, freight collect, and to insure, at Buyer's expense with an insurer selected by Seller, the full value of the Goods so shipped. Seller may, at its election, deliver the Goods in one or more installments. All such installments shall be separately invoiced and paid for when due without regard to subsequent deliveries. If Goods that are ready for shipment are to be kept back on instructions of Buyer, the Goods will be stored at Buyer's expense and risk at prevailing storage rates. If Seller does not have the necessary storage space at its plant, Seller is entitled to store the Goods elsewhere at Buyer's expense and risk.

**5. TERMS OF PAYMENT.** Unless otherwise stated, payment terms are Net Thirty (30) days of invoice date. Payment is to be made in U.S dollars, with all associated bank charges paid by Buyer. Buyer's obligation to pay does not cease until the full contract price has been remitted to and is at the free disposal of Seller. Payments shall be made as stipulated without any deductions, including but not limited to, deductions for discounts, expenses or taxes of any kind, or for any alleged damages or claims arising under this agreement or any other agreement unless expressly agreed to in writing by Seller. In the event that Buyer shall fail to pay any part of the purchase price when due, Seller may, at its option, defer further shipments or cancel the unshipped balance. Seller reserves the right, prior to making any shipments, to



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require from Buyer satisfactory security for performance of Buyer's obligations. All expenses/costs associated with collection of past due accounts are payable by Buyer.

**6. DELIVERY.** Any indicated date of delivery is approximate and will not be binding unless expressly agreed to in writing by Seller. Seller expressly disclaims any "time is of the essence" provisions of Buyer's purchase order. Seller shall not be liable for delays in delivery due to events beyond Seller's or its subcontractors' reasonable control, including, but not limited to: *force majeure*, fires, floods, riots, strikes, labor disputes, freight embargoes, transportation delays, shortage of labor, inability to secure fuel, materials, supplies, equipment, or power on account of shortages thereof, or governmental import, export or transit suspensions or restrictions.

Delivery shall also be delayed if Buyer fails to timely perform its obligations under the agreement or if Buyer fails to submit or later modifies information necessary for the manufacture of the Goods. Delay in delivery does not entitle Buyer to cancel the agreement or to claim damages directly or indirectly attributable to such delay unless: (a) Buyer establishes that the delay was within the control and due to the fault of Seller, (b) Buyer suffered damages as a result of such delay, and (c) Seller has expressly agreed in writing.

**7. INSPECTION OF GOODS.** Buyer, its agent, or recipient of the Goods shall inspect the Goods promptly upon receipt. Buyer's right of rejection or revocation of acceptance are waived if (a) Buyer, its agent or recipient of the Goods, fails to give Seller notice of any claim within thirty (30) days after tender of delivery of the Goods, or (b) Buyer, its agent or recipient of the Goods, has used the Goods or done any other act inconsistent with rejection or revocation of acceptance (except for reasonable tests and inspection quantities). Buyer's sole and exclusive remedy in cases of delivery of defective Goods is governed by the warranty provision of this agreement.

**8. CANCELLATION/CHANGES.** Buyer may not rescind this agreement, or change or cancel an order, unless expressly agreed to in writing by Seller. Buyer shall be responsible for any increase in price relating to the change of an order, including, but not limited to actual costs incurred towards completion of the original order. In the event of cancellation, Buyer shall be responsible for the actual costs incurred by Seller, up to and including the full purchase price of the Goods.

**9. LIMITED WARRANTY; DISCLAIMERS; LIMITATION OF LIABILITY AND REMEDIES.** Seller warrants that the Goods are free from defects in material and workmanship for a period of one year from the date of shipment. Seller expressly disclaims any damages resulting from inaccurate or incomplete information provided by Buyer. Goods are not warranted against corrosion or incompatibility with the operating environment, including but not limited to, chemical attack or operation in conjunction with other components of Buyer's system, unless otherwise agreed in writing by Seller.

Seller's warranty is F.O.B. Seller's plant, and expressly excludes any costs incurred by the Buyer for removal or installation of Goods. Seller shall be given reasonable opportunity to inspect any alleged defective Goods. Provided that inspection by Seller verifies the claimed defects, Seller shall, at its option, (i) repair or replace the defective Goods or portions thereof; or (ii) refund or credit all or a portion of the purchase price, provided that the Buyer returns to Seller the defective goods in accordance with Seller's instructions. Buyer further agrees that any accommodation to Buyer by Seller, whether for sales policy reasons or otherwise, shall not be taken to establish any liability of Seller or any contract term inconsistent herewith. In no case shall the cost of warranty remedies exceed the original purchase price of the Goods.

THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR CUSTOM, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR OTHER DAMAGES (INCLUDING ATTORNEYS' FEES), ARISING OUT OF THE SALE OF GOODS TO BUYER OR ARISING OUT OF ANYTHING DONE IN CONNECTION WITH THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, LOSSES OR DAMAGES ARISING OUT OF CLAIMS FOR LOSS OF BUSINESS, GOODWILL, OR PROFITS, AND CLAIMS ARISING OUT OF THIRD PARTY ACTIONS, REGARDLESS OF WHETHER SUCH THIRD PARTY ACTIONS, OR ANY OTHER CLAIMS, LOSSES, OR DAMAGES, WERE REASONABLY FORESEEABLE TO BUYER OR SELLER, AND BUYER HEREBY WAIVES, FOR ITSELF AND ITS SUCCESSORS AND ASSIGNS ANY SUCH CLAIMS AGAINST SELLER.



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**10. SECURITY INTEREST.** Buyer hereby grants Seller a security interest in the Goods to secure any unpaid balance of the price and all other obligations of Buyer to Seller however arising. Buyer authorizes Seller to file all necessary financing statements and similar documents required to perfect the security interest granted herein and irrevocably grants Seller a power of attorney to execute any documents on behalf of Buyer relating thereto.

**11. INDEMNIFICATION BY BUYER.** Buyer shall defend or settle, at its own expense, any and all claims made against Seller, its officers, directors, agents, or employees, and shall indemnify and hold the same harmless from any and all loss, expense, damage, liability claims or demands, either at law or in equity, that the Goods sold pursuant to this agreement constitute an infringement of any patent, copyright, trademark, unfair competition or other similar law (the "Infringement Claim") to the extent that the Infringement Claim arises from the design or manufacture of the Goods pursuant to Buyer's design, instructions, or specifications.

**12. DEFAULT.** If Buyer defaults in performing any of its obligations to Seller under this agreement, or any other agreements, Seller may, at its option and without incurring any liability thereby, elect to cancel this agreement and/or to cancel any or all other agreements with Buyer, and pursue all available legal and equitable remedies.

**13. INSOLVENCY.** If Buyer shall be insolvent or cease doing business or be the subject of any proceedings under any bankruptcy, insolvency, or reorganization statute or law, such act shall, at the option of Seller, be deemed a default under this agreement, and Seller may elect to cease performing and cancel this agreement with respect to any Goods not delivered or received prior to the election, and pursue all available legal and equitable remedies.

**14. GOVERNING LAW, JURISDICTION.** This contract shall be construed and governed by the laws of the State of Ohio, including Article 2 of the Uniform Commercial Code as codified in Ohio Revised Code Chapter 1302, regardless of the laws that might be applicable under principles of conflicts of law. Any action arising from or related to this contract shall be instituted and litigated in any federal or state court located in Montgomery County, Ohio. The parties hereby irrevocably consent to the jurisdiction of the courts of Montgomery County, Ohio.

**15. NOTICES.** Any required notices shall be delivered by hand or sent by courier, facsimile, express mail (or its equivalent), or postage prepaid certified or registered mail at the addresses provided on the face hereof, and shall be deemed effective on the earlier of five (5) business days after having been sent or the date of actual receipt. Either party may change its address for notice by giving written notice to the other party of the change.

**16. MISCELLANEOUS.** These terms and conditions set forth the entire understanding and agreement between the parties. No provisions shall be waived, changed, terminated, or rescinded, except by a writing signed by both parties. Any waiver of any breach of any provision of this agreement shall not constitute a waiver of any similar or dissimilar provision, nor shall it constitute an amendment or modification of this agreement. If any provision of this agreement shall be held to be unenforceable or inapplicable, such holding shall not affect the enforceability of any other provision of this agreement. No contract to purchase Goods from Seller may be assigned by Buyer without the prior written consent of Seller. The provisions of this agreement otherwise shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.