

## GENERAL TERMS AND CONDITION OF PURCHASE

**THIS GENERAL TERMS AND CONDITION OF PURCHASE** shall govern any purchase by SOGO ELECTRONICS, INC, a Japanese corporation having its principle office at 6-22-7-Nagayama, Tama-shi, Tokyo, Japan (“**BUYER**”). of goods and/or services supplied and/or manufactured by third parties (hereinafter, the “**SELLER**”). Each supply contract and/or agreement shall be governed by these general terms and conditions of purchase which, should any divergence arise, shall prevail over the general terms and conditions of sale of the Seller, save for any waiver expressly indicated in Buyer’s purchase order. Furthermore, any terms and conditions of supply provided for in the purchase order, which diverge from these general terms and conditions shall prevail over the latter.

### RECITALS

- (A) BUYER desires to purchase, from time to time, the Goods (as hereinafter defined) from SELLER; and
- (B) SELLER desires to sell the Goods to BUYER.

**NOW, THEREFORE, the Parties hereby agree as follows:**

### ARTICLE 1. DEFINITIONS

For the purposes of this General terms and condition of purchase, the following terms and expressions shall have the following meanings:

- (a) “**Affiliate**” shall mean, with respect to a Person, any other Person directly or indirectly controlling, controlled by, or under common control with such Person. As used in this definition, the concept of “control” entails possession, directly or indirectly, and either alone or in conjunction with others, of the power to direct or cause the direction of management or policies, whether through the ownership of securities or other ownership interests, by contract or otherwise.
- (b) “**General terms and condition of purchase**” shall mean this general terms and condition of purchase, the exhibits attached hereto and any amendments thereof.
- (c) “**Business Day**” shall mean a day on which banks are not authorized or required to close in [ (name of cities and countries, such as locations of SELLER’s and BUYER’s banks, and New York, New York in the U.S. in case of US dollar transaction)].

- (d) “**Goods**” shall mean goods as specified in Individual Contract(s).
- (e) “**Individual Contract(s)**” shall mean individual contract(s) of sale and purchase of Goods to be made pursuant to the provision of Article 3 hereof;
- (f) “**Intellectual Property Rights**” shall mean any and all of the patents, tradenames, trademarks, designs, copyrights, utility models, know-how or unpatented confidential production methods used or embodied in connection with the Goods, including all improvements therein or other rights related thereto.
- (g) “**Parties**” shall mean collectively SELLER and BUYER, and “**Party**” shall mean either of them.
- (h) “**Person**” shall mean an individual, corporation, partnership, association, joint venture, trust or other entity or organization, including government and any subdivision or instrumentality thereof.
- (i) “**Price List**” shall mean the price list of the Goods in Individual Contract(s).
- (j) “**Purchase Order**” shall mean BUYER’s standard form of purchase order prevailing from time to time.
- (k) “**Sales Confirmation**” shall mean the document prepared to confirm its acceptance of BUYER’s order of the Goods in Individual Contract(s).
- (l) “**Specifications**” shall mean the specifications for the Goods in Individual Contract(s).
- (m) “**Quotation**” shall mean the price list of the Goods proposed by SELLER to BUYER from time to time.

## **ARTICLE 2. SALE AND PURCHASE**

- 2.1 SELLER agrees to sell the Goods and BUYER agrees to purchase the Goods, all in accordance with the general terms and condition of purchases as set forth in this General terms and condition of purchase and each Individual Contract.
- 2.2 This General terms and condition of purchase shall apply to, and shall be deemed incorporated in, all general terms and condition of purchases between the Parties for the sale by SELLER to BUYER of any and all Goods after the date hereof.
- 2.3 The sole relationship of the Parties shall be that of seller and buyer. Nothing herein shall be deemed to create the relationship of employer or employee, partnership, association or joint venture of any nature whatsoever. Neither Party shall have the right, power of authority to assume or create any obligation, express or implied, for which the other may become liable.

### **ARTICLE 3. ORDERING PROCEDURE**

- 3.1 At least one (1) day prior to the requested shipping day, BUYER shall submit to SELLER a Purchase Order(s) with signature of BUYER for the Goods. An Individual Contract shall be deemed to have been made when BUYER receives SELLER's acceptance of the Purchase Order, such acceptance being indicated by SELLER's countersignature on the Purchase Order, SELLER's issuance of a Sales Confirmation or similar document, SELLER's acquiescence, SELLER's delivery of the Goods or the like, provided that if any terms in such Sales Confirmation or similar document conflict with, or supplement, the terms of this General terms and condition of purchase or the Purchase Order, such conflicting or supplemental terms shall be deemed null and void and the provisions of this General terms and condition of purchase and the Purchase Order shall govern. In any case, each Purchase Order shall be deemed to have been accepted by SELLER unless SELLER rejects the order by written notice within ten (10) days after BUYER has issued the order. SELLER shall use its best efforts to timely fill all BUYER's orders and shall not unreasonably reject such orders.
- 3.2 If any discrepancy should occur between the general terms and condition of purchases of this General terms and condition of purchase and the general terms and condition of purchases or typewritten part of any Individual Contract, the general terms and condition of purchases or typewritten part of the Individual Contract shall prevail. If any discrepancy should occur between this General terms and condition of purchase and the printed part of any Individual Contract, this General terms and condition of purchase shall prevail.

### **ARTICLE 4. DELIVERY, TITLE, AND RISK OF LOSS**

- 4.1 SELLER shall deliver and BUYER shall take delivery of the Goods on a [*delivery term defined in INCOTERMS*] basis as defined in INCOTERMS 2020 as published by the International Chamber of Commerce.
- 4.2 Upon such delivery, all risk of loss and title to the Goods shall pass to BUYER.
- 4.3 Conditions relating to packing, delivery, discharge, weighing and sampling of the Goods shall be as provided in each Individual Contract.

## **ARTICLE 5. PRICE**

- 5.1 Subject to the provisions in this Article, SELLER shall sell the Goods to BUYER at the prices set forth in the then current Price List or Quotation.
- 5.2 Any increase or additional tariffs, surcharges, duties or other import fee which become applicable after any Goods are ordered, shall be payable by SELLER.

## **ARTICLE 6. PAYMENT TERMS**

- 6.1 Unless otherwise specifically agreed in Individual Contract, all payment shall be made in United States Dollars or Euro.
- 6.2 Payment for the Goods shall be made by BUYER by telegraphic transfer to the bank account(s) designated by SELLER within thirty(30) days after the receipt by BUYER of SELLER's invoice. Unless otherwise agreed between the Parties, invoices shall be issued and mailed by SELLER to BUYER upon the delivery of the Goods.

## **ARTICLE 7. INSURANCE**

- 7.1 In case under any Individual Contract and/or this General terms and condition of purchase SELLER is required to provide marine insurance, aviation insurance or land insurance, such insurance shall be provided with first class insurance companies satisfactory to BUYER for an amount equivalent to one hundred and ten percent (110%) of invoice amount, covering Institute Cargo Clause "All Risks" and "War and S.R. &C.C. Risks", unless otherwise agreed. Any extra costs of insurance incurred by reason of vessel's age, flag, classification or ownership shall be for SELLER's account.
- 7.2 During the term of this General terms and condition of purchase and ten (10) years after the last delivery of the Products to BUYER's customers, SELLER shall at its own expense, obtain and maintain product liability insurance ( for amount, with insurers and in a form approved by BUYER) to cover any and all losses, damages (actual, consequential or indirect), liabilities, penalties, claims, demands, suits or actions, and related costs and

expenses of any kind (including, without limitation, expenses of investigation, legal fees, judgments and settlements) for injury to or death of any person or property damage or any other loss suffered or allegedly suffered by any person or entity and arising out of or otherwise in connection with the Goods sold by SELLER to BUYER. SELLER shall furnish BUYER with a certificate of insurance evidencing such coverage, which insurance shall not be cancelled, modified or reduced without prior written consent of BUYER.

#### **ARTICLE 8. INSPECTION AND CLAIMS**

- 8.1 BUYER shall have the right to inspect the Goods as to quantity and, as far as reasonably possible, inspect the Goods to ensure conformity with the Specifications after discharge of the Goods at the destination thereof. Inspection of any Goods by BUYER shall not constitute acceptance thereof nor shall it constitute a waiver of any claim or right which BUYER or its customer may have with respect thereto.
- 8.2 In the event that any claim is made by BUYER, SELLER shall, at BUYER's option, do any of the followings:
- (a) repair or replace non-conforming Goods or non-conforming parts or components of Goods,
  - (b) replenish the shortage, in the case of shortage,
  - (c) repay the purchase price of the non-conforming Goods which SELLER has received.

In case of replacement or replenishment, delivery shall be made to BUYER in the same manner as stipulated herein. In case of repayment, SELLER shall reimburse such amount to BUYER. In addition to the above remedies, SELLER shall reimburse BUYER for any and all costs, expenses, losses and damages arising in connection with any claim alleged by BUYER.

#### **ARTICLE 9. WARRANTY**

- 9.1 SELLER hereby warrants to BUYER and to its customers that Goods shall ( i ) strictly conform to the Specifications, drawings, data and samples thereof, and to all governmental regulations and safety standards in the country where the Goods are sold, ( ii ) be free from defects in design, material, workmanship, instruction manuals, labeling, warning instruction or the like, and ( iii ) be of merchantable quality and fit for the ordinary purposes for which the Goods are used and BUYER's and its customer's intended uses thereof and ( iv ) shall be packed properly and delivered timely. This warranty shall survive any

inspection, delivery, acceptance or payment by BUYER.

- 9.2 With respect to any and all claims alleged by BUYER on the above-mentioned warranty for a period of [twelve (12)] months from the date of original installation or [twelve (12)] months from the shipment date to BUYER of the Goods, whichever is longer, SELLER shall, at BUYER's option, either promptly repair, replace or refund the purchase price of any Goods which do not comply with SELLER's warranty and shall reimburse BUYER for any and all costs, expenses, losses and damages arising in connection therewith.
- 9.3 The foregoing obligations hereunder shall survive the expiration or termination of this General terms and condition of purchase.
- 9.4 When any Goods are repaired or replaced by SELLER hereunder, the repaired or replaced Goods shall be subject to the same warranties, the same conditions and the same remedies as the original Goods.

#### **ARTICLE 10. INDEMNITY**

- 10.1 SELLER shall indemnify and hold BUYER, its subsidiaries and affiliates and their directors, officers and employees harmless from any and all losses, damages, obligations, liabilities, costs and expenses (including, without limitation, legal fees and expenses) arising out of or in connection with ( i ) any claim of a third party regarding any breach of warranty or representation or any defect in the design, materials or workmanship of Goods regardless of whether such defect is caused by the negligence of SELLER, ( ii ) any claim of a third party with respect to the Goods, including, without litigation any claim or infringement or trademarks, trade names, emblems, designs, copyrights and other intellectual property arising or in connection with BUYER's sale of the Goods and ( iii ) any claim, suit or action of a third party for injury to or death of any person arising out of or otherwise in connection with Goods sold by SELLER to BUYER.
- 10.2 In complying with the provision of Article 10.1 above, SELLER shall actively and at its own expense defend against any such claim, provided that if in BUYER's sole opinion SELLER fails to mount an adequate defense to such claim, BUYER shall have the right to so defend or, its sole discretion, to make any settlement of such claim, and SELLER shall cooperate with such efforts (including, without limitation, technical and other information, documents, data, materials and witnesses as may be requested by BUYER in its opinion

necessary for such defense to such claim) and shall indemnify BUYER therefor as provided in Article 10.1 above.

#### **ARTICLE 11. INTELLECTUAL PROPERTY RIGHTS**

SELLER shall guaranty or warranty to BUYER that the Goods are free from infringement or violation or any patent, copyright, trade secret, trademark or other proprietary, and if any claim by a third party against BUYER asserts that Goods infringe upon any patent, copyright, trade secret, trademark or other proprietary right, SELLER shall at its own expense defend any such suit and/ or settle the same. BUYER shall notify SELLER in writing of the commencement of any such claim, and upon BUYER's request SELLER shall hold BUYER harmless from any damages, losses, expenses and costs arising from such infringement or violation.

#### **ARTICLE 12. TERMS**

12.1 This General terms and condition of purchase shall remain in full force and effect for an initial term ending [one (1) year] after the date first set forth above, unless earlier terminated as provided in this General terms and condition of purchase.

12.2 So long as ( i ) the Parties continue to meet their obligations hereunder and ( ii ) this General terms and condition of purchase has not been otherwise terminated pursuant to Article 13, this General terms and condition of purchase will be automatically renewed for additional [one-year] terms unless either Party provides the other Party with a written notice not later than [thirty (30)] days prior to the scheduled end of the then current term of its desire to terminate this General terms and condition of purchase, in which case this General terms and condition of purchase will terminate at the end of such term.

#### **ARTICLE 13. COMPENSATION FOR DAMAGES AND TERMINATION DUE TO DELAY IN DELIVERY**

13.1 ( i ) SELLER shall deliver the Goods to BUYER on the date of delivery of the Goods as specified in the Individual Contract.

( ii ) If SELLER fails to deliver the Goods to BUYER by the date of delivery of the Goods as specified in the Individual Contract, SELLER shall compensate BUYER for damages

suffered by BUYER due to the delay in delivery.

(iii) BUYER's damages due to delay in delivery by SELLER shall be deemed 20% of the purchase price per year, unless otherwise specified in the Individual Contract, and SELLER shall compensate BUYER for the damages on a pro rata basis for the period from the date of the delay in delivery to the date of delivery.

(iv) SELLER shall not be relieved of its obligation to compensate BUYER for damages unless SELLER demonstrates that the aforementioned delay in delivery is reasonable or that BUYER's damages are less than 20% of the purchase price in a year.

13.2 Either Party (the “**Terminating Party**” in this Article 13.2) may, by written notice, immediately upon receipt or such later date as specified in the notice, terminate this General terms and condition of purchase and/or Individual Contract in one of the following circumstances:

- (a) Failure to Comply with this General terms and condition of purchase. If the other Party materially fails to comply with the general terms and condition of purchases of this General terms and condition of purchase and/or each Individual Contract, including failure to pay any amount when due, and does not cure such failure within a period of [five (5)] days after written notice from the Terminating Party, provided that Force Majeure events pursuant to Article 14 shall not provide a basis under this Article 13.1;
- (b) Insolvency, Etc. If the other Party enters into any arrangement of composition with its creditors or goes into liquidation, insolvency, bankruptcy, receivership or reorganization proceedings, except that, in case of non-voluntarily proceedings, when such proceedings are not dismissed within ninety (90) days;
- (c) Dissolution, Merger or Similar Events. If the other Party becomes dissolved, or terminates its corporate existence by merger, consolidation or otherwise (except by merger or consolidation with its parent, subsidiary or the Affiliate);
- (d) Sale of Assets. If the other Party sells all or substantially all of its assets; or
- (e) Cessation of Business. If the other Party ceases to continue to do business.



13.3 Termination of this General terms and condition of purchase shall not relieve either Party of any liability arising prior thereto or of any liability which by its terms is to take effect upon termination.

#### **ARTICLE 14. FORCE MAJEURE**

Neither party shall be responsible for nonperformance or delay in performance under this General terms and condition of purchase and/or any Individual Contract due to acts of God, civil commotion, war, acts or terrorism, riots, strikes, lockouts, sever weather, fires, explosions, governmental actions or inaction, or other similar causes beyond the control of such party, provided that the party so affected shall promptly give notice thereof to the other party and shall continue to take all action reasonably within its power to comply herewith as fully as possible. In any event the time for performance hereunder shall only be extended for the duration of the delay. Should such conditions continue for more than one (1) month, BUYER shall have the right to terminate forthwith all or any part of this General terms and condition of purchase and/or any Individual Contract by giving notice thereof to SELLER without any liability.

#### **ARTICLE 15. SECRECY**

The Parties shall hold in strict confidence, and shall not disclose, directly or indirectly, to any third party and technical, economic, financial, marketing or other information received from the other Party or discerned pursuant to this General terms and condition of purchase without prior written approval of the other Party. Notwithstanding the foregoing, it is agreed that the Parties may disclose information: (a) if and to the extent required by law or government regulations; and (b) to their legal or other advisers solely for the purpose of obtaining advice in connection with this General terms and condition of purchase and subject to appropriate confidentiality obligations. The obligations imposed by this Article shall survive the expiration or termination of this General terms and condition of purchase until such information becomes a part of the public domain without any act, negligence or omission by the Party.

#### **ARTICLE 16. NOTICE**

Any notice or other documents required or permitted to be given hereunder shall be in writing in the English language and shall be posted by pre-paid registered mail, delivered personally by hand, delivered by overnight courier, or sent by e-mail or facsimile transmission addressed to the Party or Parties to whom it is to be given at the address shown below or at such other address or

addresses as the Party or Parties to whom such writing or document is to be given shall have last notified the other Party in accordance with the provisions of this Article:

If to SELLER:

(name of SELLER)

(address of SELLER)

Attention: \_\_\_\_\_

Facsimile No.: \_\_\_\_\_

E-Mail:

If to BUYER:

(name of BUYER)

(address of BUYER)

Attention: \_\_\_\_\_

Facsimile No.: \_\_\_\_\_

E-Mail:

Any such notice or other document shall:

- (a) if delivered by hand or overnight courier, be deemed to have been given and received at the place of receipt on the date of delivery, provided that if such date is a day other than a Business Day in the country of receipt, such notice or document shall be deemed to have been given and received at the place of receipt on the first Business Day in the country of receipt thereafter;
- (b) if posted, be deemed to have been given and received at the place of receipt on the date of actual receipt.; or
- (c) if transmitted by e-mail or facsimile transmission, be deemed to have been given and received on the next Business Day in the country of receipt following the day of sending.

Any notice given in any other manner shall not be valid for the purposes of this General terms and condition of purchase.

#### **ARTICLE 17. GENERAL PROVISIONS**

#### 17.1 Assignment

Neither Party shall assign, in whole or in part, by operation of law or otherwise, this General terms and condition of purchase nor any of the rights, interest or obligations under this General terms and condition of purchase without the prior written consent of the other Party and all attempted assignment without such consent shall be null and void. Notwithstanding the foregoing, BUYER may assign all or any of its rights and obligations under this General terms and condition of purchase to any of its Affiliates without the consent of SELLER.

#### 17.2 No Implied Rights

Nothing herein, express or implied, is intended to or shall be construed to confer upon or give to any Person other than the Parties and their Affiliates, any interest, rights, remedies or other benefits with respect to or in connection with any general terms and condition of purchase or provision contained herein or contemplated hereby. Except as it may be otherwise expressly provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, permitted assigns, heirs, executors and administrators of the Parties.

#### 17.3 Governing Law

This General terms and condition of purchase shall be governed by, and construed in accordance with the laws of Japan, excluding the 1980 United Nations Convention on Contracts for the International Sale of Goods, without regard to the conflicts of law rules thereof.

#### 17.4 Dispute Resolution

- (a) The Parties shall strive to resolve amicably any and all differences arising between or among them respecting the interpretation of this General terms and condition of purchase or any part or provision thereof or their rights and obligations thereunder by mutual consultations. Failing such amicable resolution during a 30-day period, any controversy, claim or dispute relating to or arising under, out of or in connection with this General terms and condition of purchase shall be finally settled by arbitration held in Tokyo, Japan and conducted in the Japanese language, under the Commercial Arbitration Rules of the Japan Commercial Arbitration Association. Unless the Parties agree to one arbitrator, there shall be three arbitrators. The arbitrator(s) will not have authority to award punitive damages to any Party. The award of the arbitrator(s) shall be final and binding upon the Parties, and judgment thereon may be entered in any court of competent jurisdiction. Prior to the appointment of the arbitrator(s), either Party may seek provisional or interim measures from any court of competent jurisdiction. After the appointment of the arbitrator(s), the arbitrator(s) shall

have exclusive power to consider and grant requests for provisional or interim measures.

- (b) This Article and all arbitral proceedings conducted hereunder shall be governed by the laws of Japan.

#### 17.5 Severability

If any of the provisions of this General terms and condition of purchase shall be invalid or unenforceable in one jurisdiction, such invalidity or unenforceability shall not invalidate or render unenforceable the entire General terms and condition of purchase in such jurisdiction, but instead, the entire General terms and condition of purchase shall be construed as if not containing the particular invalid or unenforceable provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly. In the event that such invalid or unenforceable provision is an essential and material element of this General terms and condition of purchase, then, in respect of such jurisdiction, it shall be replaced, to the extent that the economic benefits conferred by this General terms and condition of purchase to both Parties remain substantially unimpaired, by another provision reflecting the intentions of the Parties. Any invalidity or unenforceability of any provisions of this General terms and condition of purchase in one jurisdiction will not affect the validity or enforceability thereof in any other jurisdiction.

#### 17.6 Non-waiver of Right

No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof and any waiver of any breach of the provisions of this General terms and condition of purchase shall be without prejudice to any rights with respect to any other or further breach thereof.

#### 17.7 Article Captions

The captions or headings of the Articles and any subdivisions thereof do not form part of this General terms and condition of purchase and shall not have any effect on the interpretation thereof.

#### 17.8 Costs and Expenses

Upon BUYER's request, SELLER shall reimburse BUYER for all costs and expenses, including, without limitation, reasonable attorneys' fees and other legal expenses, incurred or paid by BUYER in exercising protecting its rights or remedies under this General terms and condition of purchase and/or any Individual Contract, plus interest thereon at the highest rate permitted by applicable law.

#### 17.9 Non Disadvantage

No provision of this General terms and condition of purchase shall be construed against or interpreted to the disadvantage of either Party by any court or other governmental or judicial authority by reason of such Party having or being deemed to have structured or dictated such provision.

#### 17.10 Consent

Whenever the approval or consent of SELLER is required under this General terms and condition of purchase, such approval or consent shall not be unreasonably withheld.

#### 17.11 Entire General terms and condition of purchase

This General terms and condition of purchase, together with all Exhibits, constitutes the entire general terms and condition of purchase and understanding of the Parties with respect to the subject matter of this General terms and condition of purchase [except (existing general terms and condition of purchase or letter etc. which must survive, if any)], and supersedes all prior discussions, general terms and condition of purchases and understandings between the Parties with respect to the subject matter of this General terms and condition of purchase. No representation or statement not contained in this General terms and condition of purchase shall be binding on either Party as a warranty or otherwise. Even if specific statements or provisions are provided on either the Parties' web site or elsewhere, such descriptions on web site or elsewhere shall not constitute the subject matter of this General terms and condition of purchase unless they are stated that such descriptions are terms of general terms and condition of purchase between the Parties herein. No amendment, modification or assignment of this General terms and condition of purchase shall be binding on the Parties unless made in writing expressly referring to this General terms and condition of purchase and signed by an authorized representative of each Party.

#### 17.12 Counterparts

This General terms and condition of purchase may be executed in any number of counterparts or by facsimile or e-mail, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. Any of such counterparts may be delivered by facsimile or email transmission.