



## **TERMS AND CONDITIONS**

### **1. GENERAL**

Linear Express is a division of Linear Technology Corporation and shall be referred to as "Seller". The party placing purchase order shall be referred to as "Buyer". The terms and conditions of sale contained herein shall apply to all quotations and offers made by and purchase orders accepted by Seller. These terms and conditions contained herein shall govern, and acceptance of Buyer's order is conditioned upon Buyer's acceptance of the terms and conditions contained herein irrespective of whether the Buyer accepts these conditions by a written acknowledgement, by implication, or acceptance and payment of goods ordered hereunder. Seller's failure to object to provisions contained in any communication from Buyer shall not be deemed a waiver of the provisions herein. Any changes in the terms and conditions of sale contained herein must specifically be agreed to in writing, signed by a corporate officer of Linear Technology Corporation, before becoming binding on either party.

### **2. PRICING**

Prices are quoted in US\$, and are subject to modification or withdrawal without notice. All billings for products and services will be at the price indicated on the Seller's web site. Unless otherwise specified or required by law, all prices will be quoted and billed exclusive of International duties, foreign taxes, US Federal, US State, and local excise, sales and similar taxes.

### **3. TERMS OF PAYMENT**

Term of payment shall be net thirty (30) days from the date of Seller invoice. Seller reserves the right to require payment in advance or C.O.D and otherwise to modify credit terms based on the financial condition of the Buyer.

### **4. TITLE AND DELIVERY**

Unless otherwise agreed upon by Seller, all sales are made EX Works point of shipment in the United States. Seller's title passes to Buyer and Seller's liability to deliver ceases upon making delivery of material purchased hereunder to carrier at shipping point in good condition; the carrier acting as Buyer's agent. All claims for damages must be filed with the carrier. Claims against Seller for shortages must be made within ten (10) days after arrival of shipment. Seller assumes no responsibility for delay, breakage or damage after having made delivery in good order to the carrier.

### **5. ACCEPTANCE**

The Buyer shall accept or reject nonconforming products within thirty (30) days of receipt of each shipment. Failure to notify Seller in writing of nonconforming products within such period shall be deemed an unqualified acceptance.

### **6. LIFETIME WARRANTY**

Seller warrants that the products covered hereby shall be free from defects in workmanship and materials, and shall conform to Linear Technology Corporation's published specifications or other specifications accepted in writing by Linear Technology Corporation for an unlimited time following the date of shipment. The foregoing warranty does not apply to any products which have been subject to misuse (including static discharge), neglect, accident, or modification or which have been soldered or altered during assembly and are not capable of being tested by Linear Technology under its normal test conditions. Linear Technology Corporation shall make the final determination as to the existence or cause of any alleged defect. Seller's sole obligation to Buyer hereunder for products failing to meet the aforesaid warranty shall be, at Seller's discretion, to replace the nonconforming product or issue Buyer credit for the purchase price of the nonconforming product where; 1) Seller has received written notice of any nonconformity, and 2) after Seller's written authorization to do so Buyer has returned the nonconforming product to Seller, freight prepaid, and 3) Seller has determined that the product is nonconforming and that such nonconformity is not a result of improper installation, repair, test, or other misuse by Buyer. In no case are products to be returned without first obtaining permission and a customer return order number from Seller. No products sold by Seller may be used in a life support application (see Medical Disclaimer).

THE FOREGOING WARRANTY AND REMEDIES ARE EXCLUSIVE AND ARE MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR USE OR A PARTICULAR PURPOSE. SELLER NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE SALE, INSTALLATION OR USE OF ITS PRODUCTS AND SELLER MAKES NO WARRANTY WHATSOEVER FOR PRODUCTS NOT MANUFACTURED BY LINEAR TECHNOLOGY. SELLER SHALL NOT BE LIABLE FOR DAMAGES DUE TO DELAYS IN DELIVERIES OR USE AND SHALL IN NO EVENT BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, WHETHER ARISING FROM CONTRACT, TORT OR NEGLIGENCE, INCLUDING BUT NOT LIMITED TO, LOSS OR GOODWILL, OVER-HEAD OR OTHER LIKE DAMAGES.

#### **7. PATENT CLAUSE**

Buyer shall indemnify, defend and hold Seller harmless against any expense, damages, costs or losses resulting from any suit or proceeding brought for infringement of patents, trademarks, copyrights, trade secrets, or for unfair competition arising from compliance with Buyer's designs or specifications or instructions.

Seller shall not be liable for any costs or damages incurred by Buyer as a result of any suit or proceeding brought against the Buyer and Buyer will indemnify, defend and hold Seller harmless from any expenses, damages, costs, or losses resulting from any suit or proceeding brought against Seller, either severally, or jointly with Buyer, so far as such suit or proceeding is based on claims that use of any product or any part thereof, furnished hereunder, in combination with products not supplied by Seller constitute either direct or contributory infringement of any patent, or copyright of the United States.

Sales of products or any parts thereof, hereunder confers on the Buyer no license under any patent rights of Linear Technology Corporation covering or relating to (a) the structure of any devices to which the products or parts may be applied, or (b) a process or machine in connection with which they may be used.

#### **8. CONTINGENCIES**

All orders will be shipped from stock. Seller will use its best efforts to fill all orders according to the agreed schedule and quantity. Seller shall not be responsible for any failure to perform due to unforeseen circumstances or to cause beyond Seller's control. Examples of such causes are acts of God, war, riot, embargoes, acts of civil or military authorities, fire, floods, accidents, strikes, shortages of transportation facilities, fuel, labor or materials or for any other causes beyond Seller's reasonable control. In the event of any delay caused by such contingency, the date of delivery shall, at the discretion of Seller, be deferred for a period equal to the time of loss by reason of the delay.

#### **9. CANCELLATION**

No cancellations or reschedules will be accepted within thirty (30) days of the earliest request ship date. Only two (2) push-outs are allowed per line item for orders beyond thirty (30) days prior to earliest request ship date.

#### **10. LIMITATION OF LIABILITY**

SELLER'S LIABILITY UNDER OR FOR BREACH OF THIS AGREEMENT SHALL BE LIMITED TO REFUND OF THE PURCHASE PRICE OF THE PRODUCT. IN NO EVENT SHALL SELLER BE LIABLE FOR COSTS OR PROCUREMENT OF SUBSTITUTE GOODS, LOSS OF PROFITS, OR FOR ANY SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, HOWEVER CAUSED, WHETHER FOR BREACH OF WARRANTY, BREACH OF CONTRACT, REPUDIATION OF CONTRACTS, NEGLIGENCE OR OTHERWISE.

#### **11. CONTROLLING LAW**

The terms and conditions contained herein shall be governed by and construed under the laws of the State of California.

#### **12. CONSEQUENTIAL DAMAGE**

In no event shall any claim for consequential or special damages be made by either party.

### **13. SECURITY**

Buyer hereby grants Seller a security interest in the product and proceeds therefrom as security for payment of the purchase price.

### **14. GENERAL LEGAL**

- a. The prevailing party in any legal action brought by one party against the other shall be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses incurred thereby, including court costs and reasonable attorney's fees.
- b. Each shipment made hereunder shall be considered a separate transaction. In the event of any default by Buyer, Seller may decline to make further shipments. If Seller elects to continue to make shipments, such action shall not constitute a waiver of any default by Buyer or in any way affect Seller's legal remedies for such default.
- c. The terms and conditions herein, constitute the entire contract between the parties and supercede all previous communications, whether oral or written. Any changes to this contract must be made only upon mutual agreement of the parties in writing.
- d. In the event that any section of these terms and conditions are deemed unenforceable, the remaining sections shall remain in force.

### **16. IMPORT / EXPORT**

Buyer agrees to comply with all applicable laws and regulations of the United States and of the destination country. Buyer understands that Seller is subject to regulation by agencies of the U.S. government, including the U.S. Department of Commerce, which prohibit export or diversion of Seller's products to certain countries, and agrees it will not knowingly assist or participate in any such diversion or other violation of applicable U.S. laws and regulations. Buyer warrants that it shall not sell any products in countries or to users not approved to receive classified technical equipment under applicable U.S. laws and regulations or that Buyer otherwise has knowledge of such laws and regulations, and that it will abide by such laws and regulations. Buyer shall hold harmless and indemnify Seller for any damages resulting to Seller from a breach of this paragraph by Buyer.

### **17. LIFE SUPPORT POLICY**

LINEAR'S PRODUCTS ARE NOT AUTHORIZED FOR USE AS CRITICAL COMPONENTS IN LIFE SUPPORT DEVICES OR SYSTEMS WITHOUT THE EXPRESS WRITTEN APPROVAL OF THE PRESIDENT OF LINEAR TECHNOLOGY CORPORATION. As used herein:

- a. Life support devices or systems are devices or systems which (1) are intended for surgical implant into the body, or (2) support or sustain life and whose failure to perform when properly used in accordance with instructions for use provided in the labeling can be reasonably expected to result in a significant injury to the user.
- b. A critical component is any component in a life support device or system whose failure to perform can be reasonably expected to cause the failure of the life support device or system or to affect its safety or effectiveness.

### **18. LINKS TO OTHER SITES**

The Linear Web Site contains links to third party Web sites. These links are provided solely as a convenience to you and not as an endorsement by Linear of the contents on such third party Web sites. Company is not responsible for the content of linked third-party sites and does not make any representations regarding the content or accuracy of material, services or products on such third party Web sites. If you decide to access linked third party Web sites, you do so at your own risk.

STANDARD TERMS AND CONDITIONS OF SALE

Effective July 2003