

**FLEXRADIO SYSTEMS
STANDARD PURCHASE ORDER TERMS AND CONDITIONS**

1. Definitions. As used herein, the following terms have the meanings indicated:

- a. **“Affiliate”** means any entity that directly or indirectly controls, is controlled by, or is under common control with the Buyer. “Control”, for the purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.
- b. **“Buyer”** means Bronze Bear Communications, Inc. d/b/a FlexRadio Systems or any of its Subsidiaries or Affiliates, as applicable, entering into a transaction referencing an Order, or these Terms and Conditions.
- c. **“Flowdown Requirements”** means contract requirements applicable to Buyer that must also be complied with by Buyer’s suppliers.
- d. **“Items”** means goods and/or services provided or sold to Buyer from Seller pursuant to an Order.
- e. **“Order”** means a transmission of a purchase order (including a change order); purchase order release specifying specific quantities, shipping dates or delivery dates; or purchase order revision by Buyer to Seller electronically through a computer network or otherwise, by mail of hard copy, or by such other means as may be agreed by Buyer and Seller in writing, containing information evidencing a commitment by Buyer to purchase Items from Seller.
- f. **“Party”** means “Buyer” or “Seller”.
- g. **“Seller”** means the entity indicated as supplier on the Order.
- h. **“Subsidiary”** means any entity in which Buyer owns 50% or more of the voting interests of the subject entity.
- i. **“Terms and Conditions”** mean these Standard Purchase Order Terms and Conditions.

2. Acceptance of Purchase Order. Any Order referencing these Terms and Conditions is an offer by Buyer to Seller to enter into the purchase agreement described by such Order. Seller shall be deemed to have agreed to and accepted the Order (including any specifications or requirements stated therein) and these Terms and Conditions when Seller:

- a. executes and returns a signed writing indicating its intent to be bound by the Order; or
- b. delivers to Buyer any of the Items ordered; or
- c. renders for Buyer any of the services ordered (where Items ordered are, or include, services).

Any Items received by Buyer shall only be purchased upon the terms of the Order (including these Terms and Conditions), notwithstanding any terms contained in any quotation, acknowledgment, invoice, or other document issued by Seller, or Buyer’s act of accepting or paying for any shipment or any other act. Seller’s acceptance of any Order is unqualified, unconditional, and subject only to these Terms and Conditions and any of Buyer’s terms specifically set forth on the Order or any signed documents referenced in Buyer’s Order. Buyer expressly rejects any additional or different terms and conditions, including those which appear in any quotation, acceptance, shipping documentation, invoice or acknowledgment of Seller. Seller waives any right to contest the validity of these Terms and Conditions, or assert that they are void for any reason, upon Seller’s acceptance of the Order(s) referencing these Terms and Conditions.

3. Change Orders. Buyer may, upon 30 days written notice, suspend performance hereunder, increase or decrease the ordered quantities, change the scheduled delivery date, or make changes in applicable drawings, designs, or specifications, method of shipment or packing, and/or place of delivery. If the changes cause an increase in the cost or the time required by Seller for performance of the Order, and Seller so notifies Buyer before incurring any costs associated with the change, then Buyer, upon mutual agreement of the parties, may make an equitable adjustment to reflect such additional costs and/or time, and the Order will be modified accordingly. No claim by Seller for such an adjustment will be valid unless asserted within twenty (20) days from the date of receipt by Seller of the notification of change. Nothing in this paragraph is intended to excuse Seller from proceeding with this Order as changed or amended pending resolution of any equitable adjustment.

4. Amendment; Governing Law. No agreement or understanding to modify or supplement any Order or these Terms and Conditions shall be binding upon the Buyer and Seller unless authorized in writing by authorized agents of the Buyer and Seller, which writing must specifically acknowledge that these Terms and Conditions are superseded by such agreement or understanding. These Terms and Conditions and any Order shall be governed by and construed under the laws of the jurisdiction where the office of Buyer issuing such Purchase Order is located, with the exception of its choice of law provisions.

5. Termination. If an Order is canceled for Seller’s breach or default, Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, substitute Items similar or substantially similar to those canceled, and Buyer shall not be limited to procuring the least expensive substitute. Without limiting Buyer’s remedies, Seller shall be liable for, and shall hold Buyer harmless and indemnify Buyer from, any damages occasioned by Seller’s breach or default, including any difference in the cost of obtaining substitute Items. Seller agrees to proceed with any portion of this Order not canceled.

6. Shipping Instructions. Shipping will be as directed by Buyer on the Order, or if not specified, shall be DDP Buyer's receiving facility INCOTERMS 2010. Title shall transfer when risk of loss passes to Buyer under the applicable mode of transport described in INCOTERMS 2010. If a carrier or method of shipment is used that is not specified in the Order or in these Terms and Conditions, without the advance written approval of Buyer, Seller shall be debited for any increase in the cost of the shipment. Seller shall ensure that all Items are properly described, classified, packaged, marked, and labeled and are in proper condition for transportation according to applicable regulations and industry standards.

7. Warranty. Seller warrants that the products shall be free of defects in design, materials, and workmanship for a period terminating 14 months from date of delivery or 12 months from date of acceptance, whichever occurs first.

8. Product Regulations. The term "Product Regulations," as used in these Terms and Conditions, shall mean Environmental Requirements, labeling, marking, license, authorization, certification, country of origin, hazard communication, and other United States, non-United States, and international entity regulatory requirements applicable to the import, export, manufacture, use, sale, packaging, marking, or distribution of Items pursuant to an Order(s). - Seller is solely responsible for the compliance of the Items with applicable Product Regulations. Seller agrees to provide to Buyer, upon request, all information and documentation, including, but not limited to, supply chain data, necessary for Buyer to comply with all Product Regulations applicable to Buyer.

9. Inspection. Items are subject to Buyer's inspection, testing, and approval at all reasonable times, including upon 3 business days' notice work in process at Seller's facility. Buyer, at its option, may reject or refuse acceptance of Items that do not meet the requirements of the Order or any applicable warranty. Items rejected or not accepted by Buyer shall be kept by or returned to Seller, at Seller's expense and with Seller bearing any risk of loss in transit, and Seller agrees to refund to Buyer any payments (including, but not limited to, shipping expenses and taxes) made by Buyer for such Items. Payment by Buyer for any Items shall not be deemed an acceptance thereof. Acceptance of any Item shall not relieve Seller from any of its obligations, representations, or warranties hereunder or pursuant hereto.

10. Price, Payment Terms, and Invoices. Seller represents that the price charged to Buyer for Items complies with applicable government laws and regulations in effect at the time of quotation, sale, and delivery. Seller agrees that any price reduction regarding any Item that is implemented prior to shipment or rendering of such Items shall be applied to the Order for all shipments or rendering of Items following such price reduction. Unless otherwise specified thereon, prices quoted on any Order include any and all charges for the Items ordered (including, but not limited to, any charges for boxing, packing, crating, cartage, taxes, or other additional charges).

11. Confidential Information; Proprietary Rights. Seller shall take all necessary steps to protect Buyer Confidential Information (as defined below) with at least the same degree of care that Seller uses to protect its own confidential and proprietary information of like kind, but in no event less than reasonable care. "Buyer Confidential Information" means all information relating to Buyer's products or operations that is disclosed to Seller or created during the performance of any Order. Except as otherwise expressly agreed to in writing by Buyer, Seller shall not (i) use any Buyer Confidential Information except to conduct business with or on behalf of Buyer or (ii) disclose to any third party any Buyer Confidential Information, except to conduct business with or on behalf of Buyer, in which event Seller shall first ensure that such third party has signed a written confidentiality agreement having terms at least as restrictive as the terms of this Section 11.

Buyer may have valuable Intellectual Property Rights (as defined below) in tooling, documents, information, and other materials provided to Seller. Seller shall not acquire any right, title, or interest in any Intellectual Property Rights of Buyer. "Intellectual Property Rights" means patents, copyrights, know-how, trade secrets, trademarks, service marks, and industrial design rights.

If an Order includes payment for development, such as designing a unique product or modifying an existing Seller product, Seller grants to Buyer and its Subsidiaries and Affiliates a perpetual, worldwide, paid-up, royalty-free, non-exclusive license, with the right to sublicense, to make, have made, use, offer to sell, sell, export, and import all inventions or other results of Seller's development work that Seller conceives, develops, acquires, or reduces to practice in the course of performing work under the Order.

Seller grants to Buyer and its affiliates a perpetual, worldwide, paid-up, royalty-free, nonexclusive license under each copyright that Seller owns, controls, or has a right to license to reproduce, prepare derivatives of, sublicense, distribute, perform, and display any software that is embedded or loaded in the Items ("Embedded Software"), or fixed in any tangible medium of expression delivered by Seller in conjunction with the use or sale of the Items Seller warrants that the Items do not infringe on any Intellectual Property Rights or other proprietary rights of any third party because or on account of the use, offer to sell, sale, or import/export of any such Items alone or in combination with other Items or materials, except and solely to the extent that such Items are specifically constructed in accordance with Buyer's designs or technical specifications.

If any of the Items furnished to Buyer become the subject of an alleged infringement of any Intellectual Property Right of any third party, Seller shall, at its expense, either (i) procure for Buyer the right to continue using the Items; (ii) replace or modify the Items so that they are non-infringing; provided, however, that such replacement or modified Items must provide equal or greater functionality than the original Items; or (iii) if, after exhausting commercially reasonable efforts, Seller is unable to obtain either of the above two results, refund Buyer's full purchase price.

In each subcontract of Seller's work performed pursuant to an Order, Seller shall obtain for Buyer all the rights and licenses granted to Buyer under this Section 11.

12. Indemnification and Limitation of Liability. To the fullest extent permitted by law, Seller and Buyer agree to indemnify, defend (with counsel reasonably satisfactory to Buyer and Seller), and hold harmless the Parties, from and against any and all demands, claims, causes of action, lawsuits, losses, liabilities, judgments, fines, penalties, costs, and expenses, including reasonable attorneys' fees, expert fees, and court costs (individually or collectively "Claims"), arising by reason of the negligent manufacture, sale, import, export, and/or use of the Items sold hereby, or in connection with or resulting from the acts or omissions of Seller or Buyer in the performance of an Order. This indemnity and the limitation on the Parties' liability set forth below shall survive any termination or fulfillment of an Order. NOTWITHSTANDING ANYTHING ELSE IN AN ORDER OR OTHERWISE, THE PARTIES WILL NOT BE LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF AN ORDER UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY FOR (I) ANY EXEMPLARY, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR LOST DATA OR LOST PROFITS, EVEN IF ADVISED OR AWARE SUCH ARE POSSIBLE OR LIKELY (II) ANY AMOUNTS IN EXCESS OF THE AMOUNT PAID BY BUYER HEREUNDER FOR THE ITEMS, OR (III) ANY MATTER BEYOND THE A PARTY'S REASONABLE CONTROL.

13. Compliance with Laws.

- a. **General.** Seller represents that it has read, understands, has complied, and during the performance of any Order for Items shall continue to comply, with the provisions of all applicable laws, rules, regulations, directives, ordinances, orders, or statutes (collectively, the "Laws") from which liability may accrue to Buyer for any violation thereof. Seller agrees that it will provide Buyer with U.S. export classification information regarding all Items within 10 (ten) business days of receipt of an Order.
- b. **Government Procurement/Funding.** Items may be used by Buyer in fulfilling a U.S. government prime contract or subcontract, a federally funded contract, or state or other government contract requiring compliance with various procurement or non-procurement regulations (Flowdown Requirements) and socioeconomic programs. Therefore, Seller is subject to the applicable U.S. and state government procurement Laws in effect at the time of accepting the Order. Such socioeconomic and procurement requirements include but are not limited to federal laws addressing wage rates, discrimination, and debarment. Buyer's Flowdown Requirements are available at <https://www.flexradio.com/downloads/flowdown-attachment-fda-2019-181-r-2-1/> In the event that any Seller hereunder has any questions or needs additional detail as to any of applicable government obligations, a copy of such obligations will be provided by Buyer to Seller, upon specific written request.
- c. **Customs and Import/Export Controls.** Export licenses or authorizations necessary for the export of Items shall be the responsibility of Seller unless otherwise indicated in this Contract, in which event Seller shall provide such information as may be necessary to enable Buyer to obtain such licenses or authorizations. Seller shall immediately notify Buyer if Seller is, or becomes listed on a Debarred, Excluded or Denied Party List of an agency of the U.S. Government, or if its export privileges are denied, suspended or revoked in whole or in part by any Government entity or agency. Seller warrants that it will control and maintain the receipt, storage and disposition of all controlled technical data or information received from Buyer and will officially destroy or return all data to Buyer in the U.S. upon fulfillment of the Order obligations. No controlled technical data, information or other items provided by the Buyer in connection with this Order shall be provided to any foreign persons or to a foreign entity, including without limitation, a foreign subsidiary of Seller, without the express prior written authorization of the Buyer and the Seller's obtaining of the appropriate export license, technical assistance agreement or other required documentation.
- d. **Conflict Minerals.** On an annual basis or more frequently if requested by Buyer, Seller shall disclose to Buyer any Items Seller delivered to Buyer that contain tin, tantalum, tungsten, gold, or other materials that may be designated as a conflict mineral by the U.S. government ("Conflict Minerals"). Seller shall have a supply chain policy and ongoing practices for controlling Conflict Minerals and shall undertake (1) a reasonable inquiry into the country of origin of Conflict Minerals incorporated into Items it provides Buyer; and (2) due diligence of its supply chain, as necessary. All ~~such~~ supporting information and documentation for conflict material control efforts shall be retained by Seller for a minimum of five years and be subject to audit by Buyer upon reasonable notice. Seller shall include the substance of this Section 15(d) in all subcontracts awarded by Seller for work under this Purchase Order.

14. Assignment and Third-Party Beneficiary. Any Order(s) accepted by Seller shall not be assigned by transfer, disposition, sale, or otherwise, without the written consent of Buyer. It is understood and agreed that these Terms and Conditions shall be binding upon and inure to the benefit of the Parties and their respective parent(s), subsidiaries, affiliates, representatives, attorneys, agents, successors, and permitted assigns. There are no third-party beneficiaries to this Order. This Order shall not confer any rights or remedies upon any person other than the Buyer and Seller, and to the extent expressly set forth herein, their subsidiaries, affiliates, and their respective successors, and permitted assigns.

15. Set Off. In addition to any right of setoff or recoupment provided by law, Buyer may at any time and without notice recoup, deduct, or set-off claims by Seller or Seller's subsidiaries or affiliates (or its assignee or financing institution) for amounts due or to become due from Buyer against any claims that Buyer or any Buyer subsidiary or affiliate has or may have arising out of this or any other transaction between Buyer or Buyer's subsidiaries or affiliates and Seller or Seller's subsidiaries or affiliates.

16. Severability; No Waiver. Invalidation of any of the provisions contained in these Terms and Conditions, or the application of such invalidation thereof to any person, by legislation, judgment, or court order shall in no way affect any of the other provisions hereof or the application thereof to any other person, and the same shall remain in full force and effect, unless enforcement as so modified would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes hereof.

17. Entire Agreement. These Terms and Conditions along with the applicable Order, Design Agreement, and any other specifications or requirements transmitted by Buyer to Seller in writing in connection therewith which specifically references the applicable Order constitutes the entire agreement between the Seller and Buyer with respect to the matters contained therein and supersedes all prior oral or written representations and agreements.

18. Ethical and Contribution Awareness. The Buyer shall ensure that the Seller is acting in accordance with the same standards that are set forth and followed by the Buyer. These include but are not limited to:

- a. Ensuring personnel are aware of their contribution to product or service conformity.
- b. Ensuring personnel are aware of their contribution to product safety.
- c. Ensuring personnel are aware of the importance of ethical behavior; and
- d. Ensuring personnel are aware of the process for identification and control of counterfeit parts.