

1. **ENTIRE AGREEMENT** – This document, entitled Terms and Conditions of Sale (the "Terms") and the Invoice (collectively the "Agreement") between TriStar Electronics Corporation, a Texas business corporation ("Seller"), and its customer ("Buyer"), constitute all of the terms and conditions of the transaction of business, including without limitation Seller's provision of goods and/or services ("Seller's Products") to Buyer and Buyer's payment to Seller thereof, between Seller and Buyer (the "Agreement"). Any prior Agreements, if any, are superseded and are not enforceable against Seller or Buyer unless agreed to in writing by both Seller and Buyer. No subsequent modifications of the Agreement, if any, between Buyer and Seller are binding, may be relied upon by Seller or Buyer, or are enforceable against Seller or Buyer unless agreed to in writing by both Seller and Buyer. No documents stipulating additional or conflicting terms and/or conditions as to the Agreement are binding or may be relied upon by Seller or Buyer unless agreed to in writing by both Seller and Buyer.
2. **DELIVERY** – Seller will deliver Seller's products to Buyer F.O.B. at Seller's primary place of business. Any risk of loss will pass to Buyer upon Seller's delivery of Seller's Products to a carrier, whether Seller or Buyer selects the carrier. Seller will have no responsibility for any delays in shipping or delivery due to any cause, whether Seller or Buyer selects the carrier.
3. **PAYMENT** – Buyer will make payment for Seller's actual receipt on a **net thirty (NET 30)** days basis from the date of Seller's Invoice, unless otherwise noted on the Invoice, for Seller's invoice amount. Buyer must notify Seller in writing of any shortages or discrepancies in shipments within five (5) business days after Buyer's receipt of Seller's Products. Buyer's failure to notify Seller will result in Buyer's waiver of any claims against Seller for such shortages or discrepancies. Buyer agrees that Seller's primary place of business is 3610 Willowbend Blvd., Suite 1020, Houston, TX 77054-1113 and payment may be paid at the place of business or to P O Box 3179, Houston, TX 77253-3179. Buyer agrees to pay interest on all past due amounts at the lower of (i) eighteen percent per annum (18%) or (ii) the maximum non-usurious rate allowed by applicable law.
4. **WARRANTIES AND LIMITATIONS** – SELLER WARRANTS THAT SELLER'S PRODUCTS SOLD TO BUYER UNDER THE AGREEMENT WILL MEET STANDARD SPECIFICATIONS FOR SUCH PRODUCTS OR SUCH OTHER SPECIFICATIONS AS MAY HAVE BEEN AGREED TO IN WRITING BY SELLER. SELLER WARRANTS THAT ALL OTHER PRODUCTS SOLD TO BUYER BY SELLER UNDER THE AGREEMENT WILL MEET THE MANUFACTURER'S EXPRESS WARRANTY AND BE ENFORCEABLE ONLY AGAINST THAT MANUFACTURER. THIS WARRANTY IS EXCLUSIVE AND SELLER MAKES NO OTHER EXPRESSED OR IMPLIED REPRESENTATION OR WARRANTY OF ANY KIND. FURTHER, TO THE EXTENT POSSIBLE, NO STATUTORY WARRANTY, EXCEPT THOSE THAT MAY BE CONSISTENT WITH THE SPECIFIC WARRANTY GRANTED HEREIN, WILL APPLY. THIS INCLUDES WITHOUT LIMITATION ANY WARRANTY FOR FITNESS FOR A PARTICULAR USE, WARRANTY OF SUITABILITY, WARRANTY OF MERCHANTABILITY, AND WARRANTY OF GOOD AND WORKMANLIKE LABOR.
5. **LIMITATION OF REMEDY AND DAMAGES** – BUYER'S EXCLUSIVE REMEDIES UNDER THE AGREEMENT AND/OR ATTRIBUTABLE TO SELLER'S PRODUCTS ARE (i) SELLER'S REPAIR OR REPLACEMENT OF SELLER'S PRODUCTS OR (ii) THE REFUND BY SELLER TO BUYER OF THE AMOUNT PAID BY BUYER TO SELLER. SELLER, NOT BUYER, HAS THE RIGHT TO ELECT WHICH REMEDY WILL APPLY AND SELLER WILL HAVE NO OTHER OR FURTHER LIABILITY. SELLER IS NOT LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, SALES, OR PRODUCTION, ALLEGEDLY ATTRIBUTABLE TO SELLER'S PRODUCTS, WHETHER ARISING FROM ALLEGATIONS OF BREACH OF CONTRACT OR EXPRESSED OR IMPLIED WARRANTY, NEGLIGENCE, PRODUCTS LIABILITY, STRICT LIABILITY, OR ANY OTHER LIABILITY THEORIES. BUYER AGREES THAT SELLER'S PRODUCTS ARE NOT CONSUMER GOODS AND SERVICES.
6. **CHANGES BY BUYER** – After Seller and Buyer have signed the Agreement, Buyer may request to modify the designs, plans, specifications, quantities, and delivery dates for Seller's Products. However, no such requests will constitute part of the Agreement or be enforceable against Seller, unless specifically agreed to in writing by Seller. Further, in order to accommodate such requests, Seller may require that Buyer pay an additional amount commensurate with the nature of the requested changes.
7. **CHANGES BY SELLER** – Seller reserves the right to modify, to delete, and to change any features, specifications, designs, prices and availability of Seller's products as Seller from time to time may determine to be in the Seller's best interests.
8. **TAXES** – Buyer is responsible for paying any and all sales, excise, use, property, occupational and other taxes ("Taxes") attributable to the manufacture, sale, subsequent resale and/or delivery of Seller's Products, in addition to, and concurrently with payment for Seller's Products' purchase price. If Buyer claims exemption from any Taxes, then Buyer must provide to Seller adequate exemption documentation prior to the time for payment thereof. If Buyer's exemption subsequently is disallowed, then Buyer agrees to pay to Seller any and all Taxes, penalties, and interest attributable to that transaction immediately upon Buyer's receipt of notification from Seller.
9. **RETURN POLICY** – To return any of Seller's Products, Buyer first must obtain a return material authorization (RMA) from Seller. Buyer must mark the return package conspicuously with the authorization. Seller assumes no responsibility for any of Seller's Products returned without prior authorization or proper, adequate packaging. Buyer is responsible for all shipping charges in returning Seller's Products to Seller. Seller is responsible for all return shipping charges on all warranty repairs. However, if Seller determines that the alleged defect is not covered by Seller's warranty, then, Buyer is responsible for the prepayment of all return shipping costs, as well as shipping costs in returning Seller's Products to Seller for repair and Seller's charges to Buyer for the repair of Seller's Products.
10. **WARNING** – Seller warns Buyer and potential users of Seller's Products that Seller's Products can be dangerous. As with all products, improper use, failure to take adequate safety precautions, and other factors can contribute to accidents which can result in personal injury, death, and/or damage to real, personal and/or intangible property. The informational material data sheets available from Seller describe proper uses of Seller's Products. Buyer and all potential users of Seller's Products should review these materials carefully and analyze all aspects of any potential application of Seller's Products. Due to the variety of operating conditions and applications of Seller's Products, Buyer and all potential users of Seller's Products, through their own analysis and testing, are solely responsible for making the final selection of Seller's Products and for assuring that all performance, engineering, installation, and warning instructions of the application are met.
11. **STATUTE OF LIMITATION** – Seller and Buyer agree the statute of limitation as to any claim arising from the sale of Seller's Products is one (1) year from the occurrence of the alleged breach or other claim.
12. **DISPUTE RESOLUTION** – SELLER AND BUYER AGREE THE LAWS OF THE STATE OF TEXAS WILL GOVERN AND THE STATE COURTS OF HARRIS COUNTY, TEXAS, WILL HAVE VENUE AND JURISDICTION OVER ANY DISPUTE ARISING FROM THE SALE OF SELLER'S PRODUCTS TO BUYER UNDER THE AGREEMENT. SELLER AND BUYER FURTHER AGREE THAT, IN THE EVENT OF ANY DISPUTE ARISING FROM THE SALE OF SELLER'S PRODUCTS, SELLER AND BUYER WILL ENGAGE IN MEDIATION IN HARRIS COUNTY, TEXAS, IN AN EFFORT TO RESOLVE THE DISPUTE, WITH EACH PARTY BEARING A PROPORTIONATE SHARE OF THE COSTS THEREOF. IF SELLER AND BUYER CANNOT AGREE ON A MEDIATOR, THEN SELLER AND BUYER WILL REQUEST THE SENIOR JUDGE OF HARRIS COUNTY'S DISTRICT COURTS SELECT A MEDIATOR FOR THEM. ANY SETTLEMENT REACHED AS A RESULT OF MEDIATION MAY BE PRESENTED TO A COURT OF COMPETENT JURISDICTION FOR ENFORCEMENT. IF THE DISPUTE IS NOT RESOLVED THROUGH MEDIATION, THEN SELLER AND BUYER WILL ENGAGE, TO THE EXCLUSION OF LITIGATION, IN BINDING ARBITRATION IN HARRIS COUNTY, TEXAS, UNDER THE THEN CURRENT RULES OF THE JUDICIAL ARBITRATION AND MEDIATION SERVICES ("JAMS"), WITH EACH PARTY BEARING A PROPORTIONATE SHARE OF THE COSTS THEREOF. IF SELLER AND BUYER CANNOT AGREE ON AN ARBITER, THEN SELLER AND BUYER WILL REQUEST THE SENIOR JUDGE OF HARRIS COUNTY'S DISTRICT COURTS SELECT AN ARBITER FROM THEM. THE ARBITER'S DECISION WILL BE FINAL AND BINDING ON SELLER AND BUYER AND EITHER MAY PRESENT THE ARBITER'S DECISION FOR THE ENTRY OF AN AWARD BY A COURT OF COMPETENT JURISDICTION. ANY MEDIATION OR ARBITRATION ISSUES NOT DIRECTLY ADDRESSED HEREIN WILL BE SUPPLEMENTED BY THE THEN CURRENT TEXAS MEDIATION ACT AND THE TEXAS ARBITRATION ACT, RESPECTIVELY. THE PROVISIONS OF THIS SECTION WILL SURVIVE ANY CESSATION OF DEALINGS BETWEEN SELLER AND BUYER.