

**TERMS AND CONDITIONS OF SALE**  
**Thompson Electronics Company**  
**905 South Bosch Road, Peoria Illinois 61607 www.thompsonet.com**  
**Voice (309) 697-2277 Fax (309) 697-3337 License # 127-000536**

**1. CONTRACT PRICE** Buyer shall pay Thompson Electronics Company (TEC) the agreed upon Contract Price, subject to additions and deductions by Change Order. Prices are valid until the validity date of the quotation or for 30 days unless stated otherwise.

**2. PROGRESS PAYMENTS** Based upon requests for payment submitted by TEC, buyer shall make monthly progress payments on account based on the value of stored materials and work completed each month. If required by TEC, monthly progress payments shall be accompanied by a Contractor's Sworn Affidavit and fully executed lien waivers from all subcontractors for whom payment is being requested by TEC.

**3. PAYMENT TERMS** Payment terms to buyers of satisfactory credit are: NET 30 Days from Date of Invoice. Payment should be sent to "remit to" address on invoice. Delinquent invoices or portions thereof are subject to a service charge of 1.5% per month (or the legal maximum allowable in the Buyer's state.) Overdue and delinquent account balances are subject to being placed for collection. Buyer shall pay all expenses incurred including collection fees, court costs, and reasonable attorney fees. If Buyer's account is overdue, Buyer agrees that TEC may offset the account balance or any portion thereof against any funds due Buyer by TEC. Orders from corporations to be shipped on open account must be confirmed with written purchase orders. All shipments are FOB Peoria, Illinois.

Prepay Terms: New customers without previous history with TEC, must pay by wire transfer, certified check, credit card or cash for product needed to be shipped immediately. New Buyers may pay by a personal or buyers check, but the order may be held for up to two weeks for check clearance. All buyers must complete a credit application which TEC will keep on file. Customers may make payments to TEC by using VISA or MasterCard if said payment is cleared in advance by TEC. Please contact our office in advance of order for details. COD Terms: COD's for up to \$300.00 can be paid by company check. For invoicing exceeding \$300.00, TEC requires payment by cash or certified check. Orders for custom fabricated materials are accepted as prepaid orders only and are not subject to cancellation or return.

**4. TAXES** TEC's prices are exclusive of brokerage fees, duty or taxes of any type unless specified and noted otherwise. Any taxes of any type applicable to any purchases from TEC shall be the responsibility of the Buyer. Buyer shall provide TEC with a current tax exemption certificate acceptable to the taxing authorities in the state, province or nation in which the merchandise is to be delivered, if said purchase is tax exempt. Buyer shall pay any and all tax liabilities and duties which are due on any purchase from TEC. Buyer shall report the tax status to TEC of any item purchased from TEC.

**5. TITLE** Title passes from TEC to the Buyer and risk of loss is borne by the Buyer when product is delivered to the carrier at the FOB point stated herein. All reports of, and claims for, damage resulting from or incurred in transportation must be filed with the carrier by Buyer.

**6. LIMITED WARRANTY--The warranty described in this paragraph shall be IN LIEU OF any other warranty, express or implied, including but not limited to, any implied warranty of MERCHANTABILITY or FITNESS FOR A PARTICULAR PURPOSE:**

**Material only Purchases** (Includes projects where TEC provides final termination labor only.)

The warranty period is one year from the date of final invoice, unless stated differently by the manufacturer. This warranty does not cover after-hour emergency service calls.

- a) The buyer is responsible for removing and reinstalling material suspected to be defective and incurs all expenses thereof.
- b) Prior to returning material, the buyer must obtain a return authorization from TEC. Shipping must be prepaid.
- c) There will be no equipment repair charge, other than shipping charges and service labor (if on-site labor is required) for material determined by the manufacturer to be defective from the factory.
- d) If the buyer requires TEC to go to the buyer's location for diagnosis or problem inspection of material

suspected to be defective, service labor rates will apply.

- e) TEC's obligation under this warranty is limited to the repair or replacement of defective material. TEC will not be responsible for subsequent damages resulting from the defect in the material.
- f) This warranty does not cover material which has been damaged by acts of nature, accident, abuse, misuse, or improper storage, installation, or service.

**Material and Installation Purchases** (Does not include projects where TEC makes only final connections at panels or final checkout of system. See warranty for material only purchases.)

- a) The warranty period is one year from the date of final invoice, unless stated differently by the manufacturer. This warranty does not cover after-hour emergency calls.
- b) Installations made by TEC are warranted for one year from the date of final invoice. It is the buyer's responsibility to notify TEC of claims of improper installation of the material. Should the buyer elect to remove suspected defective material himself, a return authorization is required prior to returning equipment to TEC.
- c) For material which the manufacturer determines was defective from the factory, there will be no repair charge (other than shipping charges).
- d) TEC's obligation under this warranty is limited to the repair or replacement of defective material. TEC will not be responsible for subsequent damages resulting from the defect in the material.
- e) This warranty does not cover material which has been damaged by acts of nature, accident, abuse, misuse, improper storage or service.

**7. EXCLUSIONS OF WARRANTIES: The parties agree that the implied warranties of MERCHANTABILITY and FITNESS FOR A PARTICULAR PURPOSE and all other warranties, express or implied, are EXCLUDED from this transaction and shall not apply to the goods sold.**

**8. BUYER'S PURCHASE ORDER - CONFLICT OF TERM:** In the event that the written terms of Buyer purchase order conflict with the terms and conditions contained herein, the terms and conditions contained herein shall control.

**9. DELIVERY:** Deliveries shall be subject to and contingent upon timely receipt of order by TEC, together with Buyer qualification of credit requirements, and TEC shall not be liable for failure to meet required delivery due to buyer's credit clearance problems or causes beyond TEC's control, including without limitation, unavailability of product from TEC's supplier, strikes and/or other labor difficulty, riot, war, fire, acts of God, delay or default by a common carrier, or other delays beyond TEC's reasonable control. Unless otherwise instructed, TEC will choose the most economical means and routing consistent with the requirements and type of product involved. Goods are packed for shipment in accordance with the standard commercial practice of TEC.

**10. DISCREPANCY CLAIMS B FAILED DELIVERY CLAIMS** Merchandise is shipped FOB Peoria and risk of loss lies with the buyer. Any claims made by buyer against TEC for discrepancies between invoiced descriptions or quantities and actual product received by the buyer must be made in writing to TEC within thirty (30) days of invoice date. Failure to submit said written claim will result in a waiver of any claims buyer may have. Any Buyer who wishes to dispute a delivery of merchandise may make written request upon TEC for carrier's proof of delivery within thirty (30) days from date of invoice. Failure by Buyer to request such proof of delivery within the 30-day time period will result in a wavier of Buyer's right to raise the issue of delivery will be conclusively presumed.

**11. RETURNED MATERIAL** No product or equipment of any kind may be returned without prior approval and specific shipping instructions from TEC. No returns are permitted on custom ordered material.

**12. RESTOCK CHARGE** Unless otherwise agreed, a restock charge will be assessed upon the return of products due to buyer ordering error or when the product has suffered damage while in buyer's possession or upon late cancellation of order or when assessed by the manufacturer.

**13. ALTERATION OF TERMS AND CONDITIONS** The terms of this Agreement are the final, complete and exclusive expression of the agreement between buyer and TEC and shall not be modified unless such modification is in writing and signed by buyer and TEC.

**14. CHANGE OF BUYER'S NAME OR ADDRESS; REORGANIZATION** Buyer hereby agrees to notify TEC in writing of any changes of name or address, or of any corporate reorganization or change of ownership. All Agreements and Obligations between TEC and the former buyer shall be binding on any entity or individual replacing the former buyer.

**15. ACCEPTANCE OF SALES ORDERS** All sales are subject to written acceptance by TEC at its principal place of business: 905 South Bosch Road, Peoria, Illinois.

**16. ASBESTOS/HAZARDOUS WASTE** Nothing in this Agreement shall impose liability on TEC for claims, lawsuits, expenses or damages arising from or in any manner related to, the exposure to or the handling, manufacture or disposal of, asbestos, asbestos products or hazardous waste in any of its various forms. The Buyer shall indemnify and hold harmless TEC from all claims, damages, losses and expenses, including attorney's fees arising out of or resulting therefrom.

**17. LIABILITY LIMITATIONS AND FORCE MAJEURE**

- a) Apart from any other terms herein limiting TEC's liability, TEC in no event shall be liable to buyer for any incidental, indirect, consequential, punitive or special damages relating in any manner to buyer's purchases from TEC, or any other aspect of the parties' business relationship, even if advised of the possibility of same by the other party.
- b) Apart from any other terms herein excusing TEC's performance, TEC shall be excused from any failure or delay in performance, if caused in whole or in part by a "force majeure", which shall include any inability to obtain materials (finished or otherwise) from usual sources of supply, transit failure or delay, labor disputes, governmental laws, orders or restrictions, fire, flood, hurricane or other acts of nature, accident, war, civil disturbance, or any other cause beyond TEC's reasonable control. The time within which TEC may timely perform shall be extended during the entire period of any force majeure.
- c) The Buyer agrees to limit TEC's liability to the Buyer and to all construction contractors and subcontractors or other parties on the project due to TEC's professional negligent acts, errors or omissions such that the total aggregate liability to all those named shall not exceed TEC's total fee for services rendered under this Agreement.
- d) TEC's liability shall further be limited to liability for its own negligence, errors or omissions alone, and not for any actions by others, including architects, individuals, buyer's representatives, construction contractors or sub-contractors; and TEC shall have no joint or several liability with any such parties, regardless of such parties' insured status and ability to satisfy claims, and Buyer agrees to hold TEC harmless against such joint or several claims.

**18. REUSE OF DOCUMENTS** All documents including drawings and specifications furnished by TEC pursuant to this Agreement are instruments of services in respect to the project. They are not intended or represented to be suitable for reuse by the Buyer or others on extensions of this project on any other project. Any reuse, unauthorized use or expansion upon said drawings and/or specifications, without specific written authorization and/or adaptation by TEC, are at Buyer's sole risk and without liability or legal exposure to TEC. Buyer shall indemnify and hold harmless TEC from all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting therefrom. Any such authorization and/or adaptation will entitle TEC to further compensation. All proposal documents and drawings represent the intellectual property of TEC. Any use of these documents, other than as authorized by TEC, may be considered as theft of intellectual property and may result in legal action against those converting said property.

**19. CANCELLATION/TERMINATION** Following acceptance by TEC, the Buyer's purchase order may only be canceled or shipments delayed with the consent of TEC. Should TEC consent to Buyer's request to stop work or to cancel the whole or any part of an order, the Buyer shall make payments to TEC as follows:

- a) Any and all work that TEC can complete within ten (10) days from date of cancellation shall be completed, shipped and paid in full;
- b) Buyer shall pay for work in process, any materials and supplies procured or for which definite commitments have been made by TEC in connection with the order; and
- c) Buyer shall pay TEC fees for all services rendered to the date of termination and later dates as related to such cancellation, and further pay all expenses including engineering labor, site labor, and shop labor and reimbursable termination expenses, including freight, handling, material restocking charges and reasonable

attorney's fees and costs.

**20. CHOICE OF LAW** This document shall be governed by the laws of the State of Illinois. In the event that any part of this document is held invalid by any court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect.

**21. VENUE** Any litigation involving this agreement shall be brought in the Tenth Judicial Circuit Court, Peoria County, Illinois. Buyer hereby waives the right to litigate the terms of this agreement in any other forum. Buyer also waives any jurisdictional, venue or service of process objections and hereby consents to litigate any disputes in the Tenth Judicial Circuit Court, Peoria, Illinois.

**22. EXECUTION** This agreement is considered in force when agreement to purchase has been made by the Buyer and accepted by TEC.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Thompson Electronics Company

Buyer

By: \_\_\_\_\_

By: \_\_\_\_\_

Its \_\_\_\_\_

Its \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_