

STANDARD TERMS AND CONDITIONS OF PURCHASE- Page 1 of 3

1. **Offer to Purchase.** Either Toshiba International Corporation or any of its subsidiaries desiring to purchase goods or services ("Buyer") may issue a purchase order ("Order") to a vendor ("Seller"). Except as otherwise agreed to in writing by Buyer, the following terms and conditions ("Terms") shall apply to Buyer's Order, which constitutes its offer to purchase the goods and services described on the Order (respectively, "Goods" and "Services") from Seller. Acceptance of this Order is expressly limited to these Terms, and any additional or contrary term in such acceptance constitutes a material alteration that Buyer objects to and rejects. Trade custom and/or usage are superseded by these Terms and shall not be applicable to broaden or narrow the express terms of the Order or used otherwise in its interpretation.
2. **Documentation.** On the date of shipment of the Goods, Seller shall promptly forward to Buyer the following duly executed documents: (1) Seller's invoice, (2) a full set of clean shipping documents (original bills of lading, express or carriers receipts), (3) certifications of quality and/or quantity, (4) packing list, and (5) any other documents or additional copies of documents Seller is required to provide per the Order. All invoices and packages must show Buyer's Order number indicated on the face hereof.
3. **Time and Delivery Schedule.** Time is of the essence in the performance of this Order and any contract based upon it. Unless otherwise agreed in writing, Seller shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet the delivery schedule specified in the Order ("Schedule"), and Seller is not authorized to anticipate any future requirement of Buyer. Goods shipped to Buyer in advance of the Schedule may be returned to Seller, at Buyer's option and at Seller's expense. Any delay alleged to be the result of an event of force majeure shall not excuse Seller's full and timely performance where alternate sources of supply of materials, goods or services are available. An event of force majeure will give Buyer, at its exclusive discretion, the right to: (i) terminate all or part of this Order with no liability of Buyer to Seller for the terminated Order; or (ii) extend Seller's performance period for such time as Buyer may elect in its sole discretion.
4. **Specifications, Quality Assurance and Instructions.** Buyer has specifically bargained for the Goods and Services, and commercially equivalent goods or services are not acceptable without Buyer's prior written approval. Goods shipped or delivered to Buyer and Services performed by Seller shall strictly conform to all Buyer-provided specifications, labels, models, drawings, plans, patterns, designs, samples and other descriptions as well as Buyer's instructions described on the face of the Order or incorporated by reference therein. Goods and Services shall be subject to final testing, inspection, approval, rejection and/or revocation of acceptance, as applicable, by Buyer or its designees prior to or after shipment or performance. Seller shall give Buyer at least five (5) days' written notice of when and where all final testing and inspections shall take place. Upon reasonable written notice to Seller, Buyer and/or its designees or customers may also (a) audit and/or review Seller's quality assurance and quality control records, (b) inspect Seller's and its suppliers' plant(s) engaged in providing Goods and/or Services, and/or (c) review Seller's accounting records and other Seller documents relating to Goods and/or Services. Any such testing, inspection, audit and/or review conducted by Buyer will not relieve Seller of any of its performance obligations under the Order. In addition to, and without waiving, or constituting an election or limitation of, any Buyer rights or remedies provided by law or specified in this Order, Buyer may reject, in whole or in part, non-conforming Goods or Services at its option. Any rejected Goods may be returned to Seller or held for Buyer disposition, all at Seller's risk, after Buyer's written notice of such rejection to Seller. Seller shall reperform any rejected Services at Buyer's request. Upon Buyer's request, Seller shall pay or reimburse to Buyer any charges incurred by Buyer (a) in holding such Goods for disposition or returning the same to Seller or (b) that relate to Seller's re-performance of non-conforming Services. Any delay in inspecting Goods, giving notice of rejection to Seller, or returning rejected Goods to Seller shall not be deemed to be either acceptance of such Goods by Buyer or a waiver of Buyer's rights to inspect, make any claim regarding or elect to return such Goods or to exercise any other Buyer rights or remedies provided by law or specified in this Order. Buyer payment of any Seller invoices shall not constitute acceptance of the Goods or Services covered by such invoice and shall not be deemed to waive any applicable Buyer rights or remedies.
5. **INDEMNIFICATION.** SELLER AGREES THAT IT WILL INDEMNIFY AND HOLD BUYER AND BUYER'S EMPLOYEES, AGENTS, AFFILIATES, SUBCONTRACTORS, AND CUSTOMERS ("INDEMNITEES") HARMLESS FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, CAUSES OF ACTION AND OTHER LEGAL PROCEEDINGS AND ALL OBLIGATIONS, LIABILITIES, DAMAGES, COSTS, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, CLAIMS FOR PERSONAL INJURY, WRONGFUL DEATH, PROPERTY DAMAGE, COSTS OF LITIGATION AND ATTORNEYS' FEES), WHETHER OR NOT RESULTING FROM ANY INDEMNITEES' ACTUAL OR ALLEGED SOLE, JOINT, CONCURRENT, COMPARATIVE, CONTRIBUTORY, ACTIVE OR PASSIVE ACTIONS, ACTIVITIES AND/OR NEGLIGENCE ARISING DIRECTLY OR INDIRECTLY, IN WHOLE OR IN PART, OUT OF OR RELATING TO: (A) ANY ALLEGED OR ACTUAL INFRINGEMENT OF ANY PATENT, COPYRIGHT, OR TRADEMARK RELATING TO THE GOODS OR ANY VIOLATION OR BREACH OF ANY TRADE SECRET RELATING TO THE GOODS OR SERVICES; (B) GOODS AND SERVICES; AND (C) ALL FEES, COMMISSIONS AND OTHER COMPENSATION RELATING TO THIS PURCHASE ORDER CLAIMED BY ANY THIRD PARTY. IF INDEMNITEES CHOOSE NOT TO DEFEND THEMSELVES IN ANY SUIT OR LEGAL PROCEEDINGS DESCRIBED ABOVE ("PROCEEDING"), UPON INDEMNITEES' REQUEST AND AT SELLER'S EXPENSE, SELLER SHALL DEFEND INDEMNITEES IN ANY SUCH PROCEEDING. IN THE EVENT INDEMNITEES, AT THEIR OPTION, RETAIN COUNSEL OF THEIR OWN CHOOSING AND PARTICIPATE IN SUCH PROCEEDING FOR THEIR OWN PROTECTION, ALL COSTS, EXPENSES, AND ATTORNEYS' FEES INCURRED BY INDEMNITEES SHALL BE PAID BY SELLER. IN THE EVENT THE GOODS OR ANY PART THEREOF ARE FINALLY DETERMINED IN ANY PROCEEDING TO INFRINGE ANY PATENT AND THE USE OF THE GOOD(S) IS PERMANENTLY ENJOINED, SELLER SHALL, AT ITS EXPENSE AND OPTION, EITHER (A) PROCURE FOR INDEMNITEES THE RIGHT TO CONTINUE USING SAID GOODS OR (B) ACCEPT THE RETURN OF SAID GOODS BY BUYER AND REFUND ITS PURCHASE PRICE TO BUYER TOGETHER WITH ALL DAMAGES, LOSSES, AND EXPENSES INCURRED BY INDEMNITEES AS A RESULT OF SUCH INFRINGEMENT AND/OR THE ISSUANCE OF SUCH INJUNCTION.
6. **Exportation.** If Buyer purchases Goods for export from the U.S., unless otherwise specified on the Order, Seller shall, at its expense: (a) pack such goods for export shipment, (b) comply with all federal, state and local laws, rules and regulations relating to and/or governing such exportation, and (c) procure and deliver to Buyer all documents required by law or by Buyer in connection with such exportation.
7. **Extra Charges.** Buyer does not agree to extra charges of any kind unless specifically accepted in writing by Buyer in advance.
8. **Transportation Charges.** Unless otherwise specified in an Order, Seller is responsible for transportation, insurance, duties and other charges, as applicable, relating to goods sold for delivery to destinations other than Seller's factory/. Buyer does not agree to any air freight charges unless accepted in writing by Buyer, in advance.
9. **Buyer's Property.** Unless otherwise agreed in writing, all tools, molds, equipment or materials Buyer furnishes to Seller or specifically pays for ("Buyer Property"), and any all replacements of any Buyer Property, including, without limitation, all affixed or attached materials such as stands for molds, shall at all times be and remain Buyer's sole property. Seller shall plainly mark or otherwise adequately identify Buyer Property, including when practical, each individual item thereof as the property of applicable Buyer, which shall be safely and securely stored separately apart from Seller's own property. Seller shall also take any additional actions as may be necessary or requested by Buyer to preserve and protect Buyer's ownership interest in Buyer Property from third party claims, including, without limitation, Seller's creditors' claims. Seller agrees to maintain an accurate updated inventory of Buyer Property and shall provide Buyer with a list of such inventory upon Buyer's request. Seller shall not substitute any property for any Buyer Property and shall not use such Buyer Property except in performing Orders. While in Seller's possession, custody, or control, and unless otherwise agreed

STANDARD TERMS AND CONDITIONS OF PURCHASE- Page 2 of 3

to in a writing signed by Buyer and Seller, TIC Property shall be held at Seller's risk and kept insured by Seller at Seller's expense in an amount at least equal to its replacement cost. Such insurance shall require that proceeds of such insurance payable due to loss of any Buyer Property shall be payable directly to Buyer. Seller shall ensure that, as loss payee, Buyer shall receive from Seller's insurance company timely certificates of insurance identifying coverage and loss payee on Buyer Property. All Buyer Property shall be subject to removal and shipment pursuant to Buyer's written request and instructions. Upon receiving any such request, Seller shall immediately prepare such Buyer Property for shipment, and shall ship such items, pursuant to Buyer's written instructions. Such Buyer Property shall be returned to Buyer in the same condition as when originally received by Seller, reasonable wear and tear expected. Seller expressly waives and disclaims all rights of offset, set-off, security interests and any and all other claims and rights to hold any Buyer Property as a result of any claim or debt between Buyer and Seller. Seller agrees that Buyer would be irreparably harmed in the event Buyer Property is not returned on Buyer's request and that Buyer is entitled to injunctive relief to enforce its rights to immediate recovery and possession of such property.

10. **Assignment.** Seller shall not assign this Order, or any contract based upon this Purchase Order, in whole or in part, or subcontract the performance of any of its obligations under the Order without Buyer's prior written consent. Subject to the foregoing, this Order, when accepted by Seller, shall be binding upon and inure to the benefit of the successors, assigns and legal representatives of Buyer and Seller.

11. **Set-Off.** Buyer shall be entitled in its sole discretion to withhold from any payments due to Seller hereunder any or all amounts, whether matured or unmatured, owing at any time from Seller to Buyer.

12. **Compliance with Laws.** Seller shall comply with all federal, provincial, state and local laws, rules and regulations applicable to the performance of its obligations under this Order ("**Applicable Laws**"), including 48 CFR 52.222-50 (Combating Trafficking in Persons), and shall include any required provisions therein in applicable agreements with their subcontractors, if any, and the Goods and Services shall, at the time of delivery or performance, as applicable, satisfy requirements of all Applicable Laws. Upon request, Seller will provide evidence of compliance to TIC or a TIC-designated third party on a timely basis using industry standardized formats. Seller also agrees to respond to any requests for feedback or notification of errors in a timely manner.

13. **Information.** Seller agrees that all plans, specifications, drawings, samples, materials and other written documents marked as confidential or proprietary and provided to Seller by Buyer, whether pursuant to this Order or otherwise ("**Information**"), shall at all times and for all purposes be held by Seller in a confidential capacity solely for Buyer's benefit. All Information shall at all times be and remain the sole property of Buyer and shall not be divulged to any third party or used by Seller (except in performing this Order) without Buyer's prior written consent. All Information shall be returned by Seller to Buyer upon Buyer's request at Seller's expense. Any knowledge or information that the Seller shall have disclosed or may hereafter disclose to Buyer in connection with the Goods or Services shall not, unless otherwise specifically agreed to in writing by Buyer, be considered Seller's confidential or proprietary information and shall be acquired by Buyer pursuant to this Order, free from any restrictions of any kind.

14. **Insurance.** If Seller's work pursuant to this Order involves operations by Seller on the premises of Buyer or its customers, Seller shall take all necessary precautions to prevent occurrence of any injury or damage to persons or property during such work, and Seller shall comply with all conduct policies of Buyer and/or its customers while on such premises. Seller shall at all times maintain such insurance, including public liability, completed operations and product liability, auto liability, property damage, employer liability and worker's compensation insurance, as may be required by Applicable Laws and as may be reasonably required by Buyer. Upon Buyer's request, Seller shall add Buyer and/or its customers as additional insureds to Seller's insurance policies.

15. **Equal Employment Opportunity.** Seller shall at all times in performing this Order comply with all applicable requirements of federal, provincial, and state law regarding equal employment opportunity and the utilization of minority and women business enterprises, including, without limitation, (a) the requirements of Parts ii, iii, and iv of Presidential Executive Order 11246 dated September 24, 1965 (30 FR 12319), Presidential Executive Order No. 11375 (32 FR 14303), Presidential Executive Order No. 11625 (36 FR 119967), Presidential Executive Order No. 11478 (34 FR 12985), Presidential Executive Order No. 12086 (43 FR 46501), Presidential Executive Order No. 11701 (38 FR 2675), Presidential Executive Order No. 12106 (44 FR 1053), Presidential Executive Order No. 12138 (44 FR 29637), and all other Executive Orders amending or superseding such Orders, and (b) the requirements of the Equal Opportunity Clause described in Part 60-1.4 of the Regulations of the Office of Federal Contract Compliance (41 CFR Section 60-1.4) which is incorporated herein by this reference, and (c) the requirements of Office of Federal Contract Compliance regulations Part 60-250.4 (41 CFR Section 60-250.4) which are incorporated by this reference herein, and (d) the provisions of 20 U.S.C. Section 793 requiring federal contractors and subcontractors to take affirmative action to employ and advance in employment qualified individuals with handicaps, and (e) the provisions of 28 U.S.C. Section 2012 requiring federal contractors and subcontractors to take affirmative action to employ and advance in employment qualified special disabled veterans of the Vietnam era. The requirements described in this Section 15 shall be incorporated in all subcontracts executed by Seller for the performance of any of the work or Services described in this Order.

16. **International Trade Compliance.** a) Customs Trade Partnership Against Terrorism. With respect to Sellers not located in the United States, Seller agrees to develop and implement, within a framework consistent with the Customs Trade Partnership Against Terrorism ("**CTPAT**") recommendations/guidelines, a verifiable, documented program to enhance security procedures throughout its supply chain process. Where the Seller does not exercise control of a production facility, transportation or distribution entity, or process in the supply chain, the Seller agrees to communicate the CTPAT recommendations/guidelines to its suppliers and transportation/distribution service providers and, where practical, condition its relationships to those entities on the acceptance and implementation of the CTPAT recommendations/guidelines. More information regarding CTPAT requirements can be found at www.customs.gov. b) Country of Origin, Commodity Code and Export Control Classification Number. For each product supplied to Buyer pursuant to this Order, Seller shall provide the country of origin, the commodity or harmonized tariff code and Export Control Classification Number on all documentation required by Section 2 herein of this Order. c) Certification of U.S. Origin of Goods. Upon Buyer's request, Seller shall certify the percentage of U.S. content in products supplied to Buyer covered by this Order. Seller shall also provide a certificate of origin for applicable free trade agreements, if any. If Seller is unable or unwilling to make such certification, Buyer is not required to purchase from Seller and shall have the right to terminate any outstanding Orders for which Seller cannot provide such certification and be entitled to a refund of any amounts paid thereunder by Buyer. d) Importer Security Filing – 10+2 Program. For all ocean shipments destined for U.S. ports, Seller must provide Importer Security Filing data elements, bill of lading at the lowest level reported to the Automated Manifest system and commercial invoice, all of which must be submitted to TIC-ISF@toshiba.com at least seventy-two (72) hours prior to vessel loading. Any fines, penalties, liquidated damages or other costs resulting from failure of Seller or its designated agent to provide accurate and timely information shall be the sole responsibility of Seller, and Seller agrees to reimburse Buyer for any amounts Buyer may incur as a result of such failure.

17. **Termination and Remedies.** Buyer may terminate any Order, including any obligations of Buyer thereunder, by providing Seller with written notice of termination prior to Buyer's actual receipt of Seller's written acceptance of the Order. In addition to all other Buyer rights and remedies provided by law or specified in this Order, Buyer may terminate any Order at any time (such termination to be effective upon Buyer's mailing written notice of such termination to Seller) upon the occurrence of any of the following:

STANDARD TERMS AND CONDITIONS OF PURCHASE- Page 3 of 3

(a) Seller's breach, or failure by Seller to perform any, of the Order's terms; (b) Seller's failure to provide timely adequate assurance of due performance upon Buyer's written request; (c) if any Buyer competitor acquires, directly or indirectly, control of Seller; (d) upon death, incapacity, removal, resignation or withdrawal from Seller's management of any director or officer or any other principal employees of Seller for any reason; (e) upon any sale, transfer or relinquishment (voluntary or involuntary, by operation of law or otherwise) of any interest, whether or not controlling, in Seller's direct or indirect ownership or upon any other change in Seller's ownership or control; (f) upon Seller's insolvency; (g) upon filing of a voluntary or involuntary petition in bankruptcy by, against or on behalf of Seller; (h) upon appointment of a receiver or trustee for all or substantially all of the Seller's property or assets; (i) in the event Seller makes a general assignment for the benefit of its creditors; or (j) in the event Seller otherwise commits an act of bankruptcy or any bankruptcy, reorganization, debt arrangement or other proceeding under any bankruptcy or insolvency law or any dissolution proceeding is instituted by, against or on behalf of Seller.

In the event of a breach, or failure by Seller to perform any, of the terms or conditions of this Order or Buyer rejects any Goods or Services pursuant to Section 4 and, in addition to all other Buyer rights and remedies provided by law or specified in this Order, Seller shall pay all direct, indirect, incidental, special and consequential costs, losses and damages Buyer incurs or sustains as a result of such breach, failure or rejection, including, without limitation, lost profits, cost of replacement Goods or Services in excess of the price specified in the Order, all debt, freight expenses and demurrage costs, and attorneys' fees and other costs of litigation incurred by Buyer to secure the performance of any contract based upon this Order or to collect costs, losses and damages due pursuant to this Section 17, and Buyer may, at its option, cancel any contract based upon this Order (or any undelivered portion of this Order) and such other contracts as may exist between Buyer and Seller and Buyer may defer, delay and/or offset payment owed under any such contract until such breach, failure or a rejection is cured or settled. No waiver by Buyer of any such failure or breach shall be deemed to be a waiver of any other prior or subsequent failure or breach. Upon Buyer's request after termination, Seller shall deliver to Buyer any work in progress, and any amount due for such delivered work in progress shall be subject to set-off against Buyer's damages associated with Seller's failure or breach.

18. **Amendment.** This Purchase Order and any contract based upon it may be amended only by a written agreement executed by authorized representatives of Buyer and Seller.

19. **Warranty.** A) Goods: Seller represents and warrants that the Goods shall (i) conform to requirements of the Order and any other specifications included or referred therein; (ii) be of merchantable quality and free from defects in design, material or workmanship; (iii) conform to any statements or representations made to Buyer or appearing in Seller's literature or advertisements; (iv) be safe and appropriate for the purpose for which products of that kind are normally used. In addition, Seller represents and warrants that it will deliver good and marketable title to the Goods, which shall be delivered free of liens or encumbrances. This warranty shall be valid for a period of eighteen (18) months from the date of shipment or twelve (12) months after such goods, materials and workmanship are first placed in operation, whichever period shall first expire. The foregoing representations and warranties shall run to Buyer, its successors, assigns, customers, and users of the Goods. B) Services: Seller represents and warrants that (1) the Services shall be performed in a good, safe and workmanlike manner and in accordance with any specifications, drawings and descriptions provided by Buyer to Seller; and (2) all Seller-furnished materials and equipment, if any, incorporated into the Services shall be free from defects in design (except Buyer-provided design), workmanship, and material.

20. **Independent Contractor.** Seller shall act as an independent contractor, is not an agent or employee of Buyer and has no authority to bind Buyer to any agreement, contract or other undertaking.

21. **Dispute Resolution.** If Seller's principal place of business is in the U.S., then venue for all disputes arising out of the Order shall be in Harris County, Texas (or in the Southern District of Texas if such proceeding is in a U.S. District Court). If Seller's principal place of business is located outside of the U.S., any controversy or claim arising out of or relating to the Order shall be settled by arbitration administered by the International Centre for Dispute Resolution ("ICDR") in Houston, Texas in accordance with the latest International Dispute Resolution Rules and Procedures of ICDR ("ICDR Rules"). Judgment upon the award rendered by the arbitrator(s) may be entered in any court or forum having jurisdiction thereof. The arbitrator(s) shall provide Seller and Buyer with a written explanation of the reasoning behind the decision and award. The arbitrators shall not have the authority to appoint a tribunal expert. Seller and Buyer further agree to first mediate any controversy or claim in accordance with the ICDR Rules in a good faith attempt to resolve it prior to initiating arbitration. The prevailing party in any arbitration proceeding shall be entitled to recover its reasonable attorneys' fees and costs of arbitration from the other party.

22. **General.** This Order may only be accepted in Harris County, Texas, and any contract based upon it is performable, in whole or in part, in Harris County, Texas and shall in all respects be governed, construed, and enforced in accordance with the laws of the State of Texas, U.S.A (without giving effect to its conflict of laws principles). The United Nations Convention for the International Sale of Goods shall not apply to any contract arising from this Order to purchase and any contracts Seller may have with its suppliers. These Terms shall be the only terms and conditions applicable to the purchase of Goods and Services and shall supersede any prior oral or written communications. Buyer may change the Order any time prior to Buyer's actual receipt of Seller's written acceptance of the Order. If not accepted, the Order shall expire thirty (30) days from the Order date.