

# **Terms and Conditions of Sale**

## **1. Orders, Prices and Terms of Payment**

All orders received by IHI Electronics, Inc. (“IHI” or “IHI Electronics”) must be accepted by IHI at its principal place of business in Lake Forest, California. All orders received by a Customer from IHI are non-cancelable non-returnable (NCNR) unless otherwise specifically stated in writing for a given and specific transaction. All IHI published prices are subject to change without notice, and all IHI shipments will be C.O.D. except as otherwise expressly provided on the invoice. IHI is not responsible for any typographical errors. Past due accounts carry interest at the lesser of 18% simple interest per annum or the maximum legal rate chargeable.

## **2. Taxes**

IHI Electronics’ prices do not include, and the Customer shall be responsible for and agrees to pay, any and all sales, use, excise, tariffs and similar taxes or charges, however designated, levied or based, applicable to the sale.

## **3. Export, Shipment and Delivery**

As express consideration for the purchase of any parts, commodities, technology, software, products or components from IHI (“IHI Parts”), you hereby acknowledge and agree and warrant to IHI Electronics that you have purchased such IHI Parts only for domestic use within the United States. If, at a later date, you decide to export or re-export any product or component that includes IHI Parts, you agree to obtain, and you warrant to IHI that you will obtain, prior to such export or re-export, any and all necessary licenses, permits and/or authorizations required by all law, rules and regulations of the United States of America, including, without limitation, U.S export control laws, rules and regulations (“Applicable Export Laws”). You further warrant to IHI Electronics that (i) you shall fully comply with all Applicable Export Laws in connection with your use or sale of IHI Parts, and (ii) all subsequent purchasers of your IHI Parts, regardless of whether such IHI Parts have been integrated into other products or components, shall also fully comply with all Applicable Export Laws. In the event of any export or re-export of IHI Parts, you acknowledge and agree, and you warrant to IHI Electronics, that such IHI Parts were exported from the United States in accordance with all Applicable Export Laws. Diversion contrary to U. S. law, including Applicable Export Laws, is prohibited, and you warrant to IHI Electronics that you will not divert IHI Parts in violation of Applicable Export Laws. Customer hereby agrees to indemnify, defend and hold IHI and its principals, employees, agents and contractors harmless from and against any and all losses, damages, claims, fines, costs and expenses (including reasonable attorneys fees) arising from or related to any violation of any Applicable Export Laws or the breach of this Agreement or any Customer warranty as set forth herein. Delivery will be made F.O.B. from IHI’s facility in Lake Forest, California or from an alternate facility as designated by IHI Electronics in the event of a drop shipment. Delivery to a common carrier constitutes delivery to the customer. Any discrepancies must be reported to the

common carrier. All freight and delivery charges are in addition to the purchase price and shall be paid by the Customer. Shipments will be sent collect or pre pay and add. Any noticeable damage to the shipment must be noted in writing before acceptance. All claims for shortage, damage or shipment errors must be made in writing to IHI within three (3) days after receipt of shipment. IHI will use commercially reasonable efforts to meet estimated delivery dates but shall not be liable for any delays whatsoever. Legal title to the products and goods furnished on a Packing List, and all risk of loss, shall pass to the Customer upon tender of such products and goods to Customer, Customer's representative or to a carrier or transport service. IHI shall retain a security interest in all of the products and goods until Customer's final payment to Seller therefor. Claims for products damaged or lost in transit should be made by Customer to the carrier or transport service only, and Customer acknowledges and agrees that IHI is not responsible for, and releases IHI from, claims related to any such loss or damage or lost product. **EXPORT CONTROL.** Customer acknowledges that IHI's products, technical data/technology, and services are subject to the Applicable Export Laws. Customer agrees and warrants to IHI Electronics that it shall not export or re-export any product or any technical data/technology or product derived from export controlled technology, except pursuant to a U.S. government license or other formal approval legally permitting such activity. Export to the following countries is strictly prohibited: Cuba, Iran, Iraq, Libya, Sudan, North Korea or Syria. Diversion, use, export or re-export contrary to Applicable Export Laws is strictly prohibited, and products may not be exported or re-exported to entities and persons that are ineligible under U.S. law to receive U.S. commodities, technology and/or software.

## **4. Returns**

Written approval for ANY return of IHI Parts must first be obtained from IHI. No return of products will be accepted by IHI without a Return Material Authorization Number (RMA #), which will be issued at IHI's sole discretion, which RMA# must be referred to in the documents accompanying any returned products and must be indicated on the outside of the boxes containing such returned IHI Parts. Returned IHI Parts must be in original condition as received by the Customer, and must be returned to IHI freight prepaid. Any alterations to IHI Parts will void IHI's limited warranty with respect thereto. A 25% restocking fee shall apply to any IHI Parts that IHI authorizes for return. Returned IHI Parts must NOT be shipped to IHI on a C.O.D. basis or they will be refused and the return approval withdrawn.

## **5. Limited Warranty and Disclaimers**

**Notwithstanding anything herein to the contrary, IHI Electronics does not warrant that any of the products it sells are year 2000 Compliant.** IHI Electronics warrants that all new products will meet original manufacturer's electrical specifications for thirty (30) days from and after the date of delivery. This warranty is void if any marking or label is removed, defaced, or otherwise tampered with on products or packaging, and shall not apply in the event such new products are damaged during shipping or by the Customer. All claims for breach of this warranty shall be subject, at the election of IHI Electronics, to submission of the product in question to reasonable testing by an independent test laboratory, whose findings shall be final, binding and conclusive on the parties. IHI Electronics does not warrant in any manner non new or used

products, whether sold loose, on circuit boards or otherwise, and all such products are sold exclusively on an “AS IS” basis. Furthermore, with respect to any non new or used products, IHI is only selling Customer its right, title and interest in and to such products, and IHI makes no representation or warranty whatsoever as to ownership of such products.

**IHI Electronics’ liability and the Customer’s sole and exclusive remedy at law or equity under any warranty issued by IHI Electronics hereunder is limited, at IHI Electronics’ election, to: (1) refund of IHI Electronics’ Customer’s purchase price for said products, without interest; (2) repair of such products; or (3) replacement of such products, provided however, that such products as IHI Electronics elects to replace must be returned to IHI Electronics by Customer, along with acceptable evidence of purchase and payment, within thirty (30) days from date of delivery, freight prepaid. Except as specifically provided otherwise herein, IHI Electronics makes no representation or warranty, expressed or implied, of any kind or nature, including (but not limited to) any implied warranties of merchantability and/or suitability or fitness for a particular use or purpose or respecting infringement of any patent, trademark, copyright or other right. IHI Electronics’ responsibility for losses or liabilities arising out of or related to the products being sold hereunder shall not exceed the purchase price thereof. In no event or circumstance, whether as a result of breach of contract, warranty, tort, (including negligence), or otherwise, shall the Customer be entitled to or IHI Electronics be liable for any indirect, special, consequential, incidental or punitive damages, including but not limited to loss of profit or revenues, loss of opportunity, loss of use of the product or any associated equipment, damage to associated equipment, cost of capital, attorneys fees and costs, cost of substitute products, facilities, services or replacement power, down time costs, costs of testing and verification or claims of third parties who buy from or deal with the Customer. IHI Electronics is not associated with any semiconductor manufacturer. No semiconductor manufacturer provides any warranty or assumes any warranty responsibility for any products sold by IHI Electronics. All products sold by IHI Electronics may be returned, to the extent permitted hereunder, only to IHI Electronics regardless of the manufacturer of such products for warranty claims.**

Customer represents and warrants to IHI and agrees that Customer has made an independent investigation and evaluation as to the nature and sufficiency of the products and goods it is purchasing from IHI, and of all laws and regulations pertaining to the same, and except as otherwise expressly provided herein has not relied upon any representation or warranty of IHI in consummating this transaction.

## **RoHS Compliance**

ANY STATEMENT AS TO PRODUCT COMPLIANCE WITH APPLICABLE LAW (INCLUDING WITHOUT LIMITATION, THAT PRODUCTS ARE **RoHS** COMPLIANT) IS EITHER: PROVIDED TO IHI ELECTRONICS BY ITS SUPPLIERS, OR DERIVED FROM DATA AVAILABLE FROM THE MANUFACTURER, AND IHI ELECTRONICS DOES NOT WARRANT ITS ACCURACY AND WILL NOT BE LIABLE FOR ANY ERROR WHATSOEVER WITH REGARD TO SUCH INFORMATION. CUSTOMER USES SUCH INFORMATION AT ITS OWN RISK.

## 6. Acceptance

IHI Electronics is not bound by any printed matter on the Customer's acceptance form or purchase orders which impose terms or conditions which vary in any manner from the terms and conditions herein provided, and in the event of any conflict, these terms and conditions shall control. Customer's issuance of an order in response to an IHI quote shall be deemed an acceptance of the Terms and Conditions of Sale herein contained.

## 7. Terms and Conditions

These terms and conditions may be changed only by IHI Electronics in writing, and in such case only if signed by the President of the company. These terms and conditions shall be governed by and construed in accordance with the laws of the State of California. In the event legal action is brought forth to enforce any of the terms hereof, or to obtain payment for the products furnished on any Packing List, the Customer shall be responsible for reasonable costs of collection incurred by IHI Electronics, including but not limited to reasonable attorney's and all legal fees.

**WARNING!** THE ORIGIN OF IHI PARTS IS NOT CERTIFIED AND SAME MAY NOT BE USED IN ANY PRODUCT OR APPLICATION IN WHICH HUMAN LIFE OR PERSONAL INJURY MAY BE AT RISK, INCLUDING BUT NOT LIMITED TO, ANY TYPE OF LIFE SUPPORT OR MEDICAL EQUIPMENT OR OTHER MEDICAL USES, ANY TYPE OF AIRCRAFT, FLIGHT OR OTHER TRANSPORTATION EQUIPMENT, OR DEFENSE, OR NUCLEAR, OR OTHER HIGH RISK APPLICATIONS.

\*\* These terms and conditions are subject to change without notice.

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