



2222 W. Rundberg Ln., Ste. 200  
Austin, Texas, 78758  
T: 512-832-8292  
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www.touchinternational.com

### **Consigned Materials Agreement**

1. Consigned parts shall be shipped in such a manner as to avoid mechanical or electrical damage. Packing slip shall be included in each shipment and shall include part number, revision level, quantity and reference supporting Purchase Order. Touch International Corporation (TI), defined as the "Seller", will inspect incoming consignments and may reject the shipment if it is not properly packaged or identified accurately via packing slip/shipping documentation. Return freight shall, in such an event, be the responsibility of TI customer, defined as the "Buyer". Any deviation of said TI Standard Consigned Materials Agreement outlined herein, must be in writing and signed by representatives of both Seller and Buyer.
2. Acceptance Quality Levels (AQL) will be identified by contract. All consigned products will be subject to AQL inspection and testing as agreed upon per contract. Parameters for acceptance and AQL levels will be driven by product type. With consigned Liquid Crystal Displays (LCD's) material, Buyer is required to provide TI with LCD driver electronics for purpose of testing. LCD's will be functionally tested and cosmetically inspected upon receipt under the following conditions:
  - a. "Factory sealed" will require a random 3% AQL or quantity three (3) per lot minimum.
  - b. Acknowledgment of one factory sealed inspection failure will initiate an additional 3% AQL or quantity three (3) per lot minimum random sampling.
  - c. Any additional failure will result in 100% inspection as defined in the contract and at Buyer's cost.
  - d. Upon agreement, buyer reserves the right to waive the process of incoming inspection and test for buyer consigned goods and as a result, Buyer bears burden for total cost of all value-add sub-assembly work.
3. Buyer agrees to accept any and all yield losses of consigned LCD's damaged in process. Yields are expected to be in excess of 90% for small quantities, increasing to 98%+ in production. However, this cannot be guaranteed for small orders (less than 100 units). Quotation language related to expected yield rates and negotiations supersede this standard agreement.
4. Finished product will be returned to the customer using original packaging, unless it has been excessively damaged in shipment. In this event, Seller will ship in best available packaging. In the event that OEM packaging proves inadequate to support Final Assembly shipment, packaging will be designed and provided at Buyer's expense.
5. Finished products warranty is limited to replacement of bonding only in the event of bond failure due to delaminating or discoloration within a period of one year from invoice date. LCD failures are specifically excluded from this warranty.
6. Any purchase order(s) issued to TI from Buyer, which involves consigned material, will indicate Buyer's acceptance of all conditions, exceptions and clarifications identified herein.



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7. **PRICE.** Touch International Corporation (TI) and its subsidiaries and/or subcontractors reserves the right to increase the price of products covered by subject Sales Order, by written notice to the Buyer, at least thirty (30) days prior to the date of shipment of such products. When quantity price discounts are quoted by TI, such discounts are computed separately for each type of product to be sold, and are based upon the quantity of each type and each size ordered at any one time for immediate delivery. If any order is reduced or canceled by the Buyer, with TI's consent, it is agreed that prices will be adjusted upward to the higher price, if applicable, for the remaining un-cancelled quantity. Unless otherwise agreed to, TI reserves the right to ship and bill ten percent (10%) more or less than the exact quantity specified. Due to extended lead times for the LCD and/or other material deliveries, and TI's need to procure them in advance, all customer purchase orders are firm and non-cancelable inside the given materials lead time. Buyer will be subject to any or all cancellation fees or charges.
8. **TAXES.** Unless otherwise specified in the quotation, the prices shown do not include any taxes, import or export duties, tariffs or custom charges. Buyer agrees to pay TI the amount of any federal, state, county, municipal, or other taxes, duties, tariffs or custom charges levied by any jurisdiction, foreign or domestic, which TI may be required to pay on account of the ownership at the place of installation or during transit of the material or equipment which is the subject of this contract, or on account of the transportation, sale, or use of said material or equipment.
9. **PAYMENT TERMS.** Unless otherwise stated in a separate agreement or on the front of this form, payment terms are NET thirty (30) days from the date of invoice. Credit terms are subject to approval by TI of amount and terms of credit at any time. TI reserves the right to require payment in advance or C.O.D. and, otherwise, to modify credit terms. When partial shipments are made, payments therefore shall become due, in accordance with the above terms upon submission of invoices. If, at the request of Buyer, shipment is postponed for more than thirty (30) days, payment will become due thirty (30) days after notice to Buyer that products are ready for shipment. These terms apply to partial, as well as complete shipments of the products. If Buyer fails to pay in accordance with these terms, TI at its option, may charge Buyer, and Buyer shall pay TI (in addition to the price), interest on the debt at the rate of twelve percent (12%) per annum from the due date until Buyer pays the debt in full.
10. **SHIPMENT.** All shipments will be made F.O.B. at TI's shipping point. In the absence of specific instructions, TI will select carrier. Title to the material, shall pass to the Buyer, upon consignment to the carrier by TI Thereupon, the Buyer shall be responsible. Products held for Buyer, or stored for Buyer, shall be at the risk and expense of Buyer. Claims against TI for shortages must be made in writing within ten (10) days after arrival of shipment.
11. **DELIVERY.** All shipping dates are approximate. If conditions arise, which prevent compliance with delivery schedules, TI shall not be liable for any damage or penalty for delay in delivery, or for failure to give notice of delay, and such delay shall not constitute grounds for cancellation. In such event, delivery dates shall be deemed extended for a period equal to such delay. Without limiting the generality of the foregoing, no liability to TI shall result from delay in performance or non-performance, directly or indirectly, caused and/or experienced during the normal production process cycle or other circumstances beyond its reasonable control, including but not limited to, act of God, fire, explosion, flood, elements, earthquake, war, act of or authorized by any Government, civil



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or military authorities, accident to machinery, priorities, labor trouble or shortage, strikes, differences with workers, pandemic, quarantine restrictions, riot, act of civil unrest, inability to obtain necessary labor, material, manufacturing facilities, equipment or transportation, failure to obtain or hardship in obtaining reasonable priced supplies of materials, acts of nonperformance of suppliers, delay due to the acts of the Buyer, or delay and/or failure of usual transportation mode or any other causes beyond the control of TI whether or not similar to the foregoing. Quantities resulting from such circumstances or process failures that would affect product conformance should not exceed ten (10%) percent. Quantities so affected may be eliminated from the agreement without liability, but the agreement shall remain otherwise unaffected.

12. **PACKING.** Unless otherwise specified, prices quoted herein include normal packaging. If the Buyer requires special packaging, an additional charge will be made.
13. **INSPECTION.** Unless Buyer notifies TI in writing within thirty (30) days from the date of shipment of any products, that said products are rejected, they will be deemed to have been accepted by Buyer. In order for the notice of rejection to be effective, it must also specify the reason(s) why the products are being rejected.
14. **FAIR LABOR STANDARDS ACT.** TI certifies that products furnished hereunder have been or will be shipped, in compliance with the Fair Labor Standards Act as amended, and regulations and orders of the U.S. Department of Labor issued there under. TI agrees that this statement may be considered as the written assurance contemplated by the October 26, 1949 amendment to said Act.
15. **GOVERNING LAW.** Terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Texas.
16. **ERRORS.** TI reserves the right to correct clerical, stenographic errors, or omissions without liability.
17. **ACCEPTANCE.** Notwithstanding any inconsistent or additional terms which may be contained in any purchase order, or any of the Buyer's other forms or documents, TI's Customer Acknowledgment as an acceptance is expressly conditioned upon Buyer's agreement to the terms and conditions herein.
18. **ENTIRE CONTRACT.** The provisions herein and on accompanying papers, if any, constitute all the terms and conditions agreed upon by the parties and shall replace and supersede all prior agreements, representations, and understandings between the parties (whether written or oral), provisions on the face and reverse side of the Purchase Order or any attachment thereto, or any prior general agreement inconsistent with the provisions hereof except that orders by a Distributor or Representative with whom TI has a franchise agreement shall be subject to the provisions of such franchise. No modification hereof shall be valid, unless in writing and duly signed by the General Manager, or his designee, as a person authorized by TI. The provisions hereof shall not be modified by any usage of trade, or any course or prior dealings or acquiescence in any course of performance.
19. **RETURN POLICY.** Buyer must contact the TI Customer Service Department prior to returning any product, to obtain a RMA number, and have available the part number(s), serial number(s), invoice number(s), invoice date(s), amount of unit(s), with accompanying trouble statement, which will remain valid for sixty (60) days. The Buyer will be contacted, by fax or email, with detailed shipping instructions. All boxes returned to TI must be packaged to prevent any damage during transit, and clearly labeled with the RMA number, if not, TI reserves the right to return such product to the Buyer. The Buyer will return all products "Freight Pre-paid". Any freight amount will be



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reimbursed for all legitimate returns unless other arrangements are made in advance. After TI's Quality Department has evaluated the returned product and it is determined to be defective as a result of TI's non-conformance with the product specifications, an offer of replacement will be given to the Buyer and it will be shipped back to the Buyer at TI's expense. In some cases, a credit may be offered at TI's sole discretion. If the returned product is evaluated and determined to be "customer damaged", TI will require an additional purchase order from the Buyer for the repair and all rework fees and costs of the damaged product(s). Any replacement product will be shipped at the Buyer's expense. If the returned product is determined to be within the product specifications, the product will be returned to Customer at their expense and Customer will remain liable for payment based on the original invoice date.