



TRIFECTA NETWORKS TERMS AND CONDITIONS OF SALE

ALL ORDERS PLACED WITH TRIFECTA NETWORKS (“SELLER”) ARE SUBJECT TO THESE TERMS AND CONDITIONS (“TERMS AND CONDITIONS”), UNLESS SUPERCEDED BY A MASTER AGREEMENT SEPARATELY EXECUTED BETWEEN THE PARTIES (“AGREEMENT”), AND ALL ADDITIONAL TERMS AND CONDITIONS PRESENTED ON OR ACCOMPANYING A SELLER QUOTE OR RELATED DOCUMENT. SALE OF ANY PRODUCTS OR SERVICES BY SELLER IS EXPRESSLY CONDITIONED ON BUYER’S ASSENT TO THESE TERMS AND CONDITIONS. NO TERM OR CONDITION CONTAINED IN BUYER’S PURCHASE ORDER OR SIMILAR DOCUMENT WILL APPLY UNLESS AGREED UPON BY SELLER, EVEN IF SELLER HAS ACCEPTED THE ORDER SET FORTH IN SUCH PURCHASE ORDER, AND ALL SUCH TERMS OR CONDITIONS ARE OTHERWISE HEREBY EXPRESSLY REJECTED BY SELLER. NO MODIFICATION OR CLAIMED WAIVER OF ANY PROVISION HEREIN SHALL BE VALID EXCEPT BY WRITTEN AMENDMENT SIGNED BY AN AUTHORIZED REPRESENTATIVE OF SELLER. THESE TERMS AND CONDITIONS REPRESENT THE ENTIRE AGREEMENT OF THE PARTIES AS TO ANY ORDER PLACED BY BUYER AND ACCEPTED BY SELLER (“ACCEPTED ORDER”), EXCEPT WHERE SELLER HAS AGREED TO OTHER OR ADDITIONAL TERMS AND CONDITIONS IN WRITING BY ITS AUTHORIZED AGENT.

- 1. ACCEPTANCE.** All orders are subject to credit approval and written (either printed or electronic) acceptance or acknowledgment by Seller at Seller’s home office, in its sole discretion, regardless of the location of Buyer or Seller’s sales representative.
- 2. PRICE.** Errors or omissions in price are subject to correction. Prices are quoted as determined by Seller in US dollars (USD) and will remain open for the time period specified in each Quotation. Freight, customs fees, tariffs, VAT, duties, freight forwarder fees, consular fees, taxes, however designated, and all other costs after shipment are Buyer’s obligations. Seller will bill Buyer for all applicable taxes unless Buyer provides an exemption certificate, and provided that, if Seller is not registered to collect and remit sales and/or use taxes in the jurisdiction where product is shipped at Buyer’s request, then Buyer hereby agrees that it shall pay and remit all applicable VAT, sales and/or use taxes to the proper taxing authority and shall indemnify Seller from any liability related to the payment, underpayment or nonpayment thereof.
- 3. PAYMENT.** All payments shall be made in US Dollars via check, ACH, or other electronic means agreed between the Parties. Unless otherwise agreed to in writing by Seller, payment terms are net thirty (30) days from the date of Seller’s invoice. All invoices will be rendered electronically as shipments are made. Seller shall not be responsible for providing hard copies of invoices, shipping receipts, or any other documentation to Buyer. Credit card charges will be subject to the current market fees. Seller may impose late charges of 1.5% per month, or the maximum permitted by law, on all outstanding balances. Seller reserves the right by written notice to cancel any Accepted Order or require full or partial payment or adequate assurance of performance from Buyer without liability to Seller in the event of: (i) Buyer’s insolvency, (ii) Buyer’s filing of a voluntary petition in bankruptcy, (iii) the appointment of a receiver or trustee for Buyer or (iv) the execution by Buyer of an assignment for the benefit of creditors.
- 4. SHIPMENT/SERVICE.** Shipment and service dates are estimated in good faith but are not guaranteed by Seller. After an order is accepted, Buyer may not change shipment and service dates without Seller’s written consent. Seller will not be held liable for any late delivery charges. Shipments will be made F.O.B. origin prepaid and add Oldsmar, Florida, or such other location as Seller shall select. Accepted Orders may be tendered in partial shipments at Seller’s discretion.
- 5. FORCE MAJEURE/DELAYS IN DELIVERY.** Except for each Party’s payment obligations hereunder, neither Party shall be liable for a failure to perform to the extent that the delay or failure was caused by an event beyond such Party’s reasonable control, which events may include natural disasters, epidemics, pandemics, quarantines, embargoes, explosions, riots, government action, wars, acts of terrorism or acts of God (each, a “Force Majeure Event”). Each Party shall use commercially reasonable efforts to ensure that the effects of any Force Majeure Event are minimized and resume full performance under these Terms and Conditions as soon as practicable.



6. TITLE, RISK OF LOSS AND INSURANCE. Title, risk of loss, and insurance responsibilities pass to Buyer upon delivery of products by Seller to a shipping agent or carrier.

7. CANCELLATIONS AND CHANGES.

(a) Cancellation of any Accepted Order, in whole or in part, is subject to Seller's receipt of Buyer's written notice of such cancellation prior to any product being shipped or released for shipment. In the event of any such cancellation, Buyer shall be responsible for any reasonable costs and expenses (including, without limitation, expenses and commitments to Seller's suppliers and subcontractors) incurred by Seller prior to Seller's receipt of the cancellation notice. Notwithstanding the foregoing, Orders for custom, special, or non-standard products and/or services, as well as any third-party Original Equipment Manufacturer's (each an "OEM") products and services not cancellable under such OEM terms and conditions, are final and non-cancelable.

(b) Seller reserves the right to cancel an Accepted Order in whole or in part if, in Seller's judgment, Buyer's financial condition does not justify the terms of payment specified.

(c) Each party may at any time propose changes to an Accepted Order. Seller is not obligated to proceed with any change until both parties agree upon such change in writing. The written change documentation will describe changes in Product type, quantity, and schedule for delivery, and the resulting changes in price and other provisions, as agreed.

(d) It shall be acceptable and not considered a change if Seller delivers a Product that bears a different, superseding, or new part or version number compared to the part or version number listed in the Accepted Order.

8. INSPECTION. Seller, or its representative will inspect products prior to shipment in accordance with its normal practices.

9. EXPORT LICENSES AND PERMITS.

(a) Seller warrants that it is in compliance with applicable U.S. export regulations. Buyer shall be responsible for procuring all applicable import licenses and complying with all import regulations.

(b) Buyer acknowledges that the export, re-export, or import into any other country of commodities, technical data, or software ("Controlled Items") purchased from Seller is subject to the export/import control laws and regulations of the U.S. as well such laws from other applicable countries (collectively the "Export/Import Laws and Regulations"), and Buyer warrants that it shall notify Seller if it intends to re-export or re-sell Controlled Items. Buyer shall comply with all Export/Import Laws and Regulations. Buyer certifies that it will not directly or indirectly export, re-export, transmit, or cause to be exported, re-exported or transmitted any Controlled Items to any country, individual, corporation, organization, or entity to which such export, re-export, or transmission is restricted or prohibited, including any country, individual, corporation, organization, or entity under sanctions or embargoes administered by the U.S. Departments of State, Treasury or Commerce, the European Union, or any other applicable government authority. Buyer certifies that it will not use any Product purchased from Seller in relation to nuclear, biological, or chemical weapons or missile systems capable of delivering same or the development of any weapons of mass destruction. Buyer certifies that it is not an embassy, agency, or subdivision of a non-U.S. government. Seller reserves the right to require Buyer to sign an Export Statement of Assurance and to provide further details regarding Buyer's intentions for the Products (including final destination, intended end use, and intended end user) prior to shipment. Buyer's failure to provide such assurance and information upon request may result in Seller's cancellation of any pending Quote or Order.



(c) Buyer acknowledges that it is Buyer's responsibility to obtain any license to export, re-export, import into any other country, or transmit any Controlled Items as may be required under any applicable export/import control laws or regulations. Buyer shall not export, re-export, import to any other country, or transmit any Controlled Items except in accordance with all applicable laws and regulations.

(d) Buyer shall not give any Foreign Person (including Buyer's own non-U.S. employees or affiliates) access to Technical Data, software, or Defense Articles or provide an unauthorized Defense Service as those terms are defined in the applicable Export/Import Laws and Regulations without the prior written consent of Seller. Any request for such consent must state the intended recipient's citizenship(s), and status under 8 U.S.C. 1101 and 8 U.S.C. 1324 (the "Immigration and Naturalization Act"), and such other information as Seller may reasonably request. No consent granted by Seller in response to Buyer's request under this paragraph 9(d) shall relieve Buyer of its obligations to comply with the provisions of this Article 9 or the Export Laws and Regulations, nor shall any such consent constitute a waiver of the requirements of this Article 9, nor constitute consent for Buyer to violate any provision of the Export Laws and Regulations.

(e) Buyer shall indemnify, defend, and save harmless Seller from and against any and all damages, liabilities, penalties, fines, costs, and expenses, including reasonable attorneys' fees, arising out of claims, suits, allegations, or charges of Buyer's failure to comply with the provisions of this Article 9 and breach of the acknowledgments and certifications set forth in paragraphs 9(b), (c) and (d). Any failure of Buyer to comply with the requirements or any breach of the acknowledgments and certifications contained in this Article 9 shall be a material breach of these Terms and Conditions.

10. PACKING. Products will be packed or packaged for shipment in accordance with Seller's standard commercial practices.

11. TECHNICAL DATA. All Seller's drawings, data, designs, tooling, equipment, procedures, engineering changes, inventions, and all other information, technical or otherwise, which was developed, made, or supplied by Seller in the sale of any product or the performance of any service sold, rendered or licensed hereunder will be and remain the sole property of Seller and no license is implied by the sale.

12. U.S. GOVERNMENT CONTRACT PROVISIONS.

(a) This Article 12 applies only if an Accepted Order is for the direct or indirect sale to any agency of the U.S. government and/or is funded in whole or in part by any agency of the U.S. government.

(b) Buyer agrees that all Products and Services provided by Seller meet the definition of "commercial-off-the-shelf" ("COTS") or "commercial item" as those terms are defined in Federal Acquisition Regulation ("FAR") 2.101. To the extent the Buy American Act, Trade Agreements Act, or other domestic preference requirements are applicable to an Accepted Order, the country of origin of Products is unknown unless otherwise specifically stated by Seller in an Accepted Order. Buyer agrees any Services offered by Seller are exempt from the Service Contract Act of 1965 (FAR 52.222-41). Buyer represents and agrees that an Accepted Order is not funded in whole or in part by American Recovery Reinvestment Act funds unless otherwise specifically stated in an Accepted Order. The version of any applicable FAR clause listed in this Article 12 shall be the one in effect on the effective date of an Accepted Order.

(c) If Buyer is an agency of the U.S. Government, then as permitted by FAR 12.302, Buyer agrees that all paragraphs of FAR 52.212-4 (except those listed in 12.302(b)) are replaced with these Terms and Conditions. Buyer further agrees the subparagraphs of FAR 52.212- 5 apply only to the extent applicable for sale of COTS and/or commercial items and as appropriate for the price agreed to in an Accepted Order.



(d) If Buyer is procuring the Products or Services as a contractor, or subcontractor at any tier, on behalf of any agency of the U.S. Government, then Buyer agrees that FAR 52.212-5(e) or 52.244-6 (whichever is applicable) applies only to the extent applicable for sale of COTS and/or commercial items and as appropriate for the price agreed to in an Accepted Order.

- 13. ASSIGNMENT.** Buyer shall not delegate any duties, nor assign any rights or claims under an Accepted Order, or for breach thereof, without Seller's prior written consent, any such attempted delegation or assignment shall be void. Seller may assign any rights, duties, or obligations herein, including under an Accepted Order, for any reason, including by way of merger, consolidation, restructuring, sale of assets or otherwise.
- 14. CONTINUOUS PERFORMANCE.** Buyer shall not top, suspend, or slow performance or payment under an Accepted Order because of any disputes between Seller and Buyer.
- 15. PRODUCT RETURNS.** Immediately upon Buyer's receipt of any goods shipped hereunder, Buyer shall inspect the same and shall notify Seller in writing of any claims for shortages or damages. Each shipment shall be deemed irrevocably accepted five (5) business days following the date of delivery unless notice is given pursuant to Seller's Product Return Policy in effect on the date of the return. See <https://www.trifectanetworks.com/product-return-policy> The terms of this policy are incorporated into these Terms and Conditions as if set forth herein.
- 16. SERVICES.**
- (a) Buyer may order Services from or through Seller from time to time from one or more OEMs, including, but not limited to, extended warranty services, which are sold by Seller as a distributor or sales agent ("OEM Services").
- (b) Buyer shall consider the OEM to be the contracting party for all OEM Services. The OEM shall be the party responsible for providing OEM Services to Buyer, and the OEM shall be solely responsible to Buyer for any loss, claims, or damages arising from or related to the provision of such OEM Services. Buyer and Buyer's Affiliates (defined below) hereby release Seller and Seller's Affiliates (defined below) from any and all claims arising from or relating to the purchase or provision of any such OEM Services. Any amounts, including, but not limited to, taxes, associated with OEM Services which may be collected by Seller will be collected solely in the capacity as an independent sales agent. "Affiliate" means, with respect to a party, an entity that controls, is controlled by, or is under common control with such party.
- (c) The terms of any contract for Professional Services from Seller will be contained in these Terms and Conditions and one or more separate agreements (each a "Related Agreement"), including but not limited to a Statement of Work or Change Order. Each Statement of Work shall incorporate these Terms and Conditions and constitute a separate agreement with respect to the Services performed. Following the expiration of the initial maintenance service term (the "Initial Term"), this Order shall automatically renew for successive one (1) year periods (each a "Renewal Term" and, together with the Initial Term, the "Term") unless a party provides notice of non-renewal at least thirty (30) days prior to the expiration of the then-current term. In the event of a conflict between any term or condition of the above-referenced Agreements and these Terms and Conditions, the conflict will be resolved by giving precedence in the following order: (i) the Change Order; (ii) the Statement of Work; and (iii) these Terms and Conditions.
- (d) Buyer shall perform any specific Buyer's duties set forth in any applicable Statement of Work, and Buyer further agrees to cooperate with Seller in connection with performance of the Services by providing: (i) timely responses to Seller's inquiries and requests for approvals and authorizations, (ii) access to any information or materials reasonably requested by Seller which are necessary or useful as determined by Seller in connection with providing the Services, including, but not limited to, physical and computer access to Buyer's computer systems, and (iii) all Required Consents necessary for Seller to provide the Services. "Required Consents" means consents or approvals required to give Seller, its Affiliates, and its and their subcontractors the right or license to access,



use, and modify all data and third-party products. Buyer acknowledges and agrees that the Services are dependent upon the completeness and accuracy of information provided by Buyer and the knowledge and

cooperation of the agents, employees, or subcontractors engaged or appointed by Buyer who are selected by Buyer to work with Seller.

- (e) Seller will follow all reasonable Buyer security rules and procedures, as communicated in writing by Buyer to Seller from time to time.
 - (f) Seller, through its employees or representatives, may perform the Services at Buyer's place of business, at Seller's own facilities, or any other location Seller and Buyer deem appropriate. When the Services are performed at Buyer's premises, Seller shall attempt to perform such Services within Buyer's normal business hours unless otherwise jointly agreed to by the parties. Buyer shall also provide Seller access to Buyer's facilities and staff and any other Buyer resources (and when the Services are provided at another location designated by Buyer, the staff and resources at such location) that Seller determines are useful or necessary for Seller to provide the Services. When the Services are provided on Buyer's premises or at another location designated by Buyer, Buyer agrees to maintain adequate insurance coverage to protect Seller and Buyer's premises and to indemnify and hold Seller and its representatives and Affiliates, and its and their agents and employees harmless from any loss, cost, damage or expense (including, but not limited to, attorneys' fees and expenses) arising out of any product liability, death, personal injury or property damage or destruction occurring at such location in connection with the performance of the Services, other than solely as a result of Seller's gross negligence or willful misconduct.
 - (g) When Product is procured from Seller in which Services will be performed prior to shipping to Buyer's location, Buyer shall accept ownership of all Product delivered to the Seller's facility at the time Seller's engineering resources begin Services as outlined in an executed Statement of Work. All Products will be invoiced to the Buyer at that time in accordance with the Payment provisions referenced in Article 3 of these Terms and Conditions.
- 17. SETOFFS.** Buyer shall have no right of setoff and shall have no right to self-help deductions against amounts due to Seller.
- 18. NO AUDITS.** Buyer shall have no right to audit Seller's books and records or to review Seller's financial statements, provided that Seller shall, upon reasonable request, provide Buyer with electronic information directly related to Buyer's account with Seller and Buyer's transactions with Seller for a period not to exceed the twelve (12) months prior to such request.