

Toshiba ISD ProfitMax® Dealer Program Terms and Conditions ("Agreement")

Upon written acceptance of the accompanying Toshiba ProfitMax Dealer Program Application by the Imaging Systems Division of Toshiba America Information Systems, Inc. ("TAIS"), your company is appointed as a non-exclusive Toshiba VAR Reseller ("Reseller"), in accordance with the following terms and conditions:

A. GENERAL

1. TAIS reserves the right to modify or withdraw the Toshiba ProfitMax Dealer Program ("Program") at any time.
2. The term of this Agreement shall commence upon the date TAIS provides written notice (includes email notice) to Reseller of its acceptance into the Program. Each party may terminate this Agreement with or without cause upon ten (10) days prior written notice to the other. Notices to TAIS shall be provided to: Toshiba America Information Systems, Inc. Imaging Systems Division Attn: ProfitMax Dealer Program 9740 Irvine Boulevard Irvine, CA 92618
3. To be eligible for participation in the Program, applicants must meet all of the following criteria: (a) Primary business must be as providers of information technology products and/or services who resells surveillance devices (CCTV cameras, IP Cameras, digital/network video recorders, power supplies, lenses, etc.) to end users; (b) Reseller sales location must be located in commercial office space or a retail storefront. TAIS also reserves the right to consider additional factors, including Toshiba strategic requirements, when considering an applicant. Toshiba may approve or reject an applicant in its sole discretion.
4. To be eligible for Program benefits: (a) Reseller must sell Toshiba branded surveillance products, including cameras, digital/network video recorders, and accessories ("Toshiba Products"); sales of third party products and accessories are not eligible for benefits under the Program; (b) Toshiba Products must be purchased through TAIS authorized distribution channels or, if Reseller is a direct customer of TAIS, through TAIS; and (c) Reseller must sell Toshiba Products to eligible end users.
5. TAIS reserves the right to designate selected end-user accounts that are managed by TAIS sales personnel as ineligible end users. TAIS will notify Reseller of all end-user accounts that are not eligible for Program benefits.
6. Mail order/catalog resellers, retailers, brokers, and distributors are not eligible to participate in the Program.
7. Reseller shall demonstrate commitment and dedication to the development of incremental business in Toshiba Products as well as to increasing awareness of the Toshiba brand name. Resellers may not represent Toshiba Products in a negative, misleading or deceptive manner.
8. Reseller shall comply with all federal, state and local laws and regulations governing the advertising, marketing and sale of Toshiba Products.
9. Reseller shall observe complete confidentiality of data, information, specifications, documentation, and other material (tangible or intangible) which is disclosed by TAIS to Reseller in connection with the Program and designated by TAIS as confidential (the "Confidential Information"), using the same degree of care as employed for the protection of its own proprietary and confidential information but in no event less than a reasonable degree of care. Reseller shall (i) not disclose to or otherwise permit access to the Confidential Information by any third party other than an employee of Reseller to the extent necessary in the performance of employee's duties for Reseller; and (ii) insure that any employee of Reseller receiving access to any of the Confidential Information is advised of the confidential nature thereof. The foregoing does not apply to any information which (i) is already in the public domain or becomes available to the public through no breach of this Agreement by Reseller, (ii) was lawfully in Reseller's possession prior to receipt from TAIS, (iii) is received independently from a third party free to lawfully disclose such information to Reseller, or (iv) is subsequently independently developed by Reseller. Reseller's obligations and TAIS's rights under this Section shall survive any expiration or termination of this Agreement for any reason whatsoever. Because of the unique and proprietary nature of the Confidential Information, it is understood and agreed that TAIS's remedies at law for a breach by Reseller of its obligations under this Section will be inadequate and TAIS shall, in the event of any such breach, be entitled to equitable relief (including without limitation preliminary and permanent injunctive relief, specific performance, attorney fees and costs), in addition to any other remedies provided under this Agreement or available to TAIS at law.
10. TAIS shall not use end user data supplied by Reseller to solicit sales from those end users, and shall not resell such end user data.
11. TAIS shall update its business contact profiles every six (6) months. Reseller shall promptly notify TAIS in writing of changes to its business status as disclosed in Reseller's Application for participation in the Program.
12. This Agreement involves products and/or technical data that may be controlled under the U.S. Export Administration Regulations and may be subject to the approval of the U.S. Department of Commerce prior to export. Any export, directly or indirectly, in contravention of the U.S. Export Administration Regulations is prohibited.
13. Each party shall be deemed to be an independent contractor and shall have no authority to bind the other. This Agreement shall not be deemed to create a partnership, agency, joint venture or other similar arrangement, and the employees, agents and representatives of one party shall not be deemed to be employees, agents or representatives of the other. Without limiting the foregoing, Reseller acknowledges that use of the term "Partner" in Program materials does not constitute or imply a partnership or any other fiduciary relationship.
14. Toshiba Products are subject to the TAIS Standard Limited Warranty accompanying the particular product, which is extended only to end users. Reseller shall have sole responsibility for any warranty it extends to an end user to the extent it differs from the TAIS Standard Limited Warranty. TAIS MAKES NO WARRANTIES OF ANY KIND TO RESELLER WITH RESPECT TO THE TOSHIBA PRODUCTS. TAIS SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE AND NON-INFRINGEMENT WITH RESPECT TO THE TOSHIBA PRODUCTS.
15. **IN NO EVENT SHALL TAIS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES FOR ANY BREACH OR TERMINATION OF THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, EVEN IF TAIS HAS BEEN NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES.**
16. **IN NO EVENT SHALL THE LIABILITY OF TAIS, WHETHER BASED ON AN ACTION OR CLAIM IN CONTRACT, TORT OR OTHERWISE, ARISING OUT OF OR RELATING TO THE TOSHIBA PRODUCTS EXCEED THE PURCHASE PRICE FOR THE PRODUCT. IN NO EVENT SHALL THE LIABILITY OF TAIS, WHETHER IN WARRANTY, CONTRACT, TORT OR OTHERWISE, FOR ANY OTHER MATTER ARISING OUT OF THIS AGREEMENT EXCEED FIVE THOUSAND DOLLARS (\$5,000).**
17. Reseller shall defend, indemnify and hold TAIS harmless from all claims, lawsuits and liability (including attorney fees and costs) arising out of Reseller's sales, marketing or related business activities.
18. This Agreement shall be governed by, construed and enforced in accordance with the internal laws of the State of California, without regard to its conflicts of law principles
19. This Agreement constitutes the entire agreement of the parties and supersedes all previous agreements, promises, representations, understandings and negotiations between the parties, whether written or oral, with respect to the subject matter hereof. This Agreement may not be amended or modified, except in a writing signed by Reseller and an authorized representative of TAIS.
20. A waiver of any provisions of this Agreement shall not be deemed a waiver of the same or any other provisions in any other instance.
21. Reseller may not assign, transfer or sell its rights or delegate its duties under this Agreement without the prior written consent of TAIS, which may be withheld in its sole and absolute discretion, and any attempted assignment, transfer or sale without such consent shall be void.
22. TAIS is not responsible for eligible product availability, and may allocate Toshiba Products in its sole discretion.
23. All claims for Program benefits submitted on behalf of Reseller are the responsibility of the Reseller, and by their submission, Reseller attests to the accuracy and validity of the claim. TAIS reserves the right to audit and verify all reports and claims submitted by Reseller at any time, and may deny any claim that it believes, in its sole discretion, does not conform to Program rules, including this Agreement. TAIS may disqualify Reseller from the Program and immediately terminate this Agreement if Reseller submits inaccurate, incomplete or fraudulent claims. TAIS reserves the right to interpret the rules of the Program in its sole discretion. All decisions made by TAIS are final.
24. Program is valid in the U.S. and for products purchased and sold in the U.S. only. TAIS and its affiliates are not responsible for any damages, taxes or expenses incurred as a result of this Program. For Resellers that have a direct contractual relationship with TAIS, all contracts and amendments with TAIS must be current and the Reseller's account must be in good standing to qualify for Program benefits.
25. Reseller shall not use any TAIS or Toshiba trademark as part of Reseller's name or in any manner which TAIS concludes in its sole judgment is unfair, confusing or misleading to the public. Reseller shall comply with any Program logo or trademark usage guidelines issued by TAIS in connection with the Program
26. TAIS conducts its business in accordance with the highest professional and ethical standards. TAIS policy prohibits the solicitation or acceptance of any bribe, kickback, or gratuity by any TAIS employee in the transaction of its business. The payment of any bribe, kickback, or gratuity is not a

condition for doing business with TAIS. Reseller shall report any violation of this policy to the General Counsel and to the President of TAIS at 9740 Irvine Boulevard, Irvine, California 92618.

B. QUARTERLY RESELLER REBATE PROGRAM

1. TIERED MEMBERSHIPS

- a. SILVER MEMBERSHIP. All Resellers shall initially participate as Silver Members (as defined in Schedule A).
- b. GOLD MEMBERSHIP. Gold Members (as defined in Schedule A) shall earn quarterly rebate benefits at the Gold Member benefit rate. (Benefit rates are outlined on Schedule B.) Resellers that sell a minimum amount of Toshiba Products as set forth in Schedule A during a TAIS fiscal quarter shall be eligible to participate in the Quarterly Reseller Rebate Program as a Gold Member beginning the month following their achievement of such sales minimum and through the following TAIS fiscal quarter.
- c. PLATINUM MEMBERSHIP. Platinum Members (as defined in Schedule A) shall earn quarterly rebate benefits at the Platinum Member benefit rate. (Benefit rates are outlined on Schedule B.) Resellers that sell a minimum amount of Toshiba Products as set forth in Schedule A during a TAIS fiscal quarter shall be eligible to participate in the Quarterly Reseller Rebate Program as a Platinum Member beginning the month following their achievement of such sales minimum and through the following TAIS fiscal quarter.

2. CALCULATION OF QUARTERLY REBATE PROGRAM BENEFITS; SALES-OUT REPORTING.

- a. TAIS reserves the right to investigate and request additional documentation and information from Reseller for any reporting errors or inconsistencies. All decisions by TAIS are final and binding. TAIS reserves the right to make appropriate adjustments based upon the results of any audit or inspection as deemed necessary in TAIS's sole and absolute discretion. TAIS reserves the right to immediately disqualify Reseller from the Program and terminate this Agreement for failure to cooperate in any audit or investigation, or for inaccurate, incomplete or fraudulent reporting.
- b. Silver, Gold, and Platinum Member Resellers will earn Quarterly Reseller Rebate Program benefits based on TAIS's calculations. Toshiba Products purchased by the Reseller from TAIS or a TAIS authorized distributor, net of returns, as shown on TAIS's records, will be the basis for calculating benefits. Pricing of Toshiba Products purchased will be determined by TAIS based on ProfitMax Suggested Price Level pricing at the time of purchase. Resellers will earn benefits from the Quarterly Reseller Rebate Program based on the price of Toshiba Products purchased by Reseller from TAIS or a TAIS authorized distributor, net of product returns, as shown on TAIS's records, multiplied by the applicable benefit rate shown on Schedule B. All Schedules are published on profitmax.toshiba.com TAIS reserves the right to exclude cross sales and sales to ineligible end users when calculating Program benefits.
- c. TAIS reserves the right to modify all Schedules at any time, however any modifications will take effect no earlier than ten (10) days after publication.
- d. TAIS authorized distributors are identified on Schedule C. Reseller is required to obtain a unique customer number from each TAIS authorized distributor with which it does business, and to provide those numbers as part of its Application for participation in the Program. When calculating Program benefits, TAIS will only include those Toshiba Products purchased by Reseller directly from TAIS or from those TAIS authorized distributors for which Reseller has provided a unique customer number.

3. PAYMENT OF QUARTERLY REBATE PROGRAM BENEFITS

- a. Benefits calculated by TAIS will be made available to Reseller based on Reseller's Program membership level.
- b. Rebate calculations shall be made by TAIS, whose decisions are final.
- c. Rebates will be disbursed within sixty (60) days after the end of each qualifying quarter.
- d. TAIS will not disburse rebates until at least \$50 has been earned by Reseller. In the event that \$50 is not earned in one quarter, the amount accrued will not carry over to the following quarter.
- e. Rebates will be issued in the form of a pass through credit to the Reseller's designated Distributor's account. If Reseller has a direct contractual relationship in place with TAIS ("Direct Reseller"), rebates will be issued via credit memo to the Accounts Receivable account of such reseller. Direct Resellers may not take rebates in the form of debits or offsets against their account with TAIS. Doing so is cause for termination from the Program.
- f. From time to time, TAIS may run special programs, which may result in an increase in rebate percentage on specific Toshiba Products.

C. PROFITMAX PROGRAM SCHEDULES

1. Schedule A – Tiered Membership Levels

- a. GOLD MEMBERSHIP: Resellers who purchase between \$15,001 and \$25,000 of eligible Toshiba Products during a TAIS fiscal quarter
- b. PLATINUM MEMBERSHIP: Reseller who purchases over \$25,001 of eligible Toshiba Products during a TAIS fiscal quarter

TAIS's fiscal quarters are January 1 to March 31, April 1 to June 30, July 1 to September 30, and October 1 to December 31

2. Schedule B – Benefit Rates

- a. GOLD MEMBERSHIP: 2% on all IP Video and CCTV Surveillance Products
- b. PLATINUM MEMBERSHIP: 4% on all IP Video and CCTV Surveillance Products

3. Schedule C - TAIS Authorized Distributors

- a. ADI
- b. Alarmax Distributors
- c. Graybar
- d. GTEK
- e. Ingram Micro
- f. Northern Video
- g. PSA
- h. Tech Data
- i. Tri-ED
- j. Security Equipment Supply
- k. Security General Inc.
- l. Synnex
- m. United Digital Technologies