

TERMS AND CONDITIONS OF SALE
FOR NON-COMMERCIAL ITEMS UNDER A U.S. GOVERNMENT PRIME CONTRACT/SUBCONTRACT
(Winchester Interconnect RF Corporation, hereinafter referred to as "Seller")

1. SCOPE

These Terms and Conditions of Sale (the "Terms") apply to all purchase orders entered into by Seller with Buyer. Seller's acceptance of Buyer's order is made on the express understanding and condition that to the extent these Terms conflict with any terms or conditions of Buyer's order, these Terms shall govern. Any modifications to or departures from these Terms must be agreed to in writing by an authorized officer of Seller before becoming binding on Seller or Buyer.

2. ORDERS

All orders are subject to final acceptance by Seller, and Seller reserves the right to accept or to reject any order in whole or in part. Seller reserves the right (without prejudice to any other remedy) to cancel any uncompleted order or to suspend delivery if Buyer fails to comply with any of its obligations to Seller or if Seller's performance is delayed by any act or omission by Buyer. Upon cancellation of any order by Buyer, or by Seller for cause as described herein, Buyer shall indemnify Seller against all losses, including labor and material costs, overhead, lost profit, and attorney's fees and costs arising out of the order and its cancellation.

3. TITLE AND DELIVERY

The goods shall be delivered F.O.B. Seller's facility, and title and liability for loss or damage in transit or thereafter shall pass to Buyer upon Seller's delivery of the goods in good condition to a common carrier for shipment to Buyer. Buyer shall pay all shipping costs. Seller retains a security interest in the goods until all money payable hereunder is paid in full. Buyer agrees that Seller may file a financing statement without Buyer's signature on the basis of these Terms and the Purchase Order. Unless instructions from Buyer specify the method of shipment to be used, Seller will exercise its own discretion. Shipping dates are estimated only and are not guaranteed. Seller shall not be liable for failure to meet such dates.

4. PAYMENTS

All orders are subject to credit approval before acceptance, and any credit extended may be limited or canceled by Seller at any time. Unless specified otherwise on Seller's order confirmation, terms of payment shall be net thirty (30) days from the date of Seller's invoice. Seller will charge Buyer interest on overdue accounts of the lesser of 1.5% per month or the maximum permitted under applicable law. Each shipment shall be considered a separate and independent transaction, and payment shall be made accordingly. In the event of any default by Buyer, Seller may withhold further shipments without in any way affecting its rights under such order. If, despite any default by Buyer, Seller continues to make shipments, doing so shall not constitute a waiver of any default by Buyer or in any way affect Seller's legal remedies for any such default. In the event of any default by Buyer, Seller shall be entitled to receive from Buyer all expenses arising out of such default, including attorney's fees and costs through appeal. All federal, state, county, local or other taxes, levies or duties of whatever nature applicable to the goods sold shall be paid by Buyer.

5. WARRANTY

Seller warrants that all products manufactured and sold hereunder by Seller shall be free of defects in material, and workmanship when used under normal operating conditions within Seller's specified ranges or other ranges expressly agreed to by Seller in writing prior to delivery, and in accordance with Seller's operating instructions, for a period of twelve (12) months from the date of acceptance at Buyer's location. Buyer's acceptance shall be deemed final no later than fifteen (15) calendar days after delivery to Buyer's location. Buyer's sole exclusive remedy under this warranty shall be the repair, or at Seller's option,

replacement of defective products or alternatively, Seller may elect to refund an equitable portion of the purchase price of the product.

THE WARRANTIES SET FORTH IN THIS SECTION CONSTITUTE THE ONLY WARRANTIES BY SELLER WITH RESPECT TO THIS ORDER AND ARE IN LIEU OF ALL OTHER WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

6. INTELLECTUAL PROPERTY INDEMNITY

(a) Seller shall indemnify and save Buyer harmless from any and all expenses, liability, and loss of any kind (including all costs and expenses including reasonable attorneys' fees) arising out of claims, suits, or actions alleging that Seller made and provided items that infringe or misappropriate intellectual property, which claims, suits, or actions Seller hereby agrees to defend, at Seller's expense, provided that Buyer promptly notifies Seller of the claim and provides Seller the information and assistance reasonably requested by Seller. Seller shall control the defense. Seller, at its option, may replace or modify infringing items with comparable goods of substantially the same form, fit, and function so as to remove the source of infringement, or may obtain for Buyer and its customers the right to use and sell said item. Seller's indemnification obligations do not extend to (i) any product or service made and provided by Seller that is combined with any other product or service where the allegation of infringement or misappropriation relates to the combination; (ii) use of any product or service other than as indicated in applicable documentation; (iii) any product or service made and provided by Seller where the allegation of infringement necessarily includes one or more elements of Buyer's design; or (iv) unauthorized modification of Seller's products or services.

(b) Buyer shall indemnify and save Seller harmless from any and all expenses, liability, and loss of any kind (including all costs and expenses including reasonable attorneys' fees) arising out of claims, suits, or actions alleging that Seller made, used, imported, sold or offered for sale or otherwise provided any products, services or information that infringe or misappropriate intellectual property because of Buyer-provided designs, drawings, specifications, instructions or information, which claims, suits, or actions, Buyer hereby agrees to defend at Buyer's expense provided that Seller promptly notifies Buyer of the claim and provides Buyer the information and assistance reasonably requested by Buyer. Buyer shall control the defense. Buyer, at its option, may replace or modify infringing items with comparable goods of substantially the same form, fit, and function so as to remove the source of infringement, or may obtain for Seller the right to use and sell said item. Buyer's indemnification obligations do not extend to any design, specifications, drawings or instructions, product or service (i) provided by Buyer that is combined with any other design, specification or drawings not provided or required by Buyer, where the allegation of infringement or misappropriation relates to the combination; (ii) use other than as indicated in applicable documentation; or (iii) unauthorized modification by Seller.

7. CONFIDENTIALITY

All specifications, information, technical data, drawings, and other items supplied by Seller to Buyer that is marked as "Confidential," "Proprietary" or with similar markings shall be disclosed to Buyer only on a confidential and proprietary basis and may not be used and/or disclosed by Buyer, unless (i) Buyer has executed a separate agreement allowing the use and disclosure of such information, data, and the like, or (ii) the use or disclosure of information marked as "Confidential" and/or "Proprietary" is consistent with an applicable non-disclosure agreement or proprietary information agreement then in force made by and between the parties. Buyer agrees not to remove

and to strictly adhere to Seller's restrictive legends. Buyer shall protect Seller's Confidential and Proprietary information and Limited Rights technical data from disclosure to third parties using reasonable measures that are no less effective than those used to protect its own proprietary information and Limited Rights technical data. Notwithstanding the foregoing or any other provision of the Order, nothing herein shall prevent Buyer from any use or disclosure of information supplied by Seller that is: (i) in the public domain at the time of disclosure; (ii) becomes available to the public after the time of disclosure through no fault of Buyer; (iii) was rightfully in Buyer's possession at the time of disclosure or that was independently developed by Buyer after the disclosure without use of any proprietary or confidential information of Seller; or (iv) was disclosed to Buyer by a third party having no duty of confidentiality and having a lawful right to do so.

8. RIGHTS IN DATA AND INVENTIONS

Any invention or intellectual property first made or conceived by Seller in the performance of this Purchase Order shall be considered to be the property of Seller. Nothing shall provide, convey or assign title, ownership rights or copyright to Buyer in any intellectual property or technical data developed by Seller prior to the effective date of this Agreement or any improvements thereof. Seller shall retain copyright in all works delivered during performance of the Order. Buyer is granted a world-wide, fully paid up limited license, on a non-exclusive basis, to use, and permit its customer to use, inventions, technology, designs, works of authorship, mask works, and technical information, first conceived, first reduced to practice or otherwise first generated in the performance of this Order by or on behalf of Seller that is embodied in a deliverable from Seller. This license grant is not transferable and cannot be sublicensed except in connection with the transfer of the Products delivered under this Order to Buyer's customer(s). Buyer, its employees and agents are prohibited from reverse engineering any products delivered under this Order.

9. LIMITATION OF LIABILITY

Seller's aggregate liability in damages and Seller's aggregate obligation to indemnify and hold harmless Buyer for any loss or claim shall be capped and shall not exceed the amount of the Purchase Order. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES OF ANY KIND, HOWEVER CAUSED. IN NO EVENT WILL SELLER BE LIABLE FOR REPROCUREMENT COSTS.

10. FORCE MAJEURE

Seller shall not be liable for delay or non-delivery due to causes beyond its reasonable control, including without limitation acts of God, acts of civil or military authority, fires, strikes, lockouts, slowdowns, factory or labor conditions, and inability to obtain materials. In the event of such delay, the date of delivery shall, at the request of Seller, be deferred for a period equal to the time lost by reason of the delay.

11. ASSIGNMENT

Buyer shall not assign its order or any interest therein or any rights hereunder without the prior written consent of Seller, and any assignment without such consent shall be void.

12. INTERPRETATION

BUYER HEREBY ACKNOWLEDGES THAT IT HAS READ THESE TERMS AND AGREES TO BE BOUND BY THEM. BUYER AGREES THAT THESE TERMS ARE THE COMPLETE AND EXCLUSIVE AGREEMENT BETWEEN THE PARTIES, AND THESE TERMS SUPERSEDE ALL PROPOSALS OR PRIOR AGREEMENTS, ORAL OR WRITTEN, AND ALL OTHER COMMUNICATIONS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT.

13. FAR FLOW-DOWN PROVISIONS

The provisions of these Terms shall be construed and interpreted consistent with the FAR, DFAR and the applicable federal common law of government contracts. If Buyer's contract with Buyer's customer(s) contains any FAR, DFAR, or any other clauses from an applicable FAR supplement ("FAR Clause") which Buyer is required to flow down to Seller, such FAR Clause shall be flowed down without modification except as to the identity of the parties and time for submission of information where applicable, and Seller shall be afforded not less than 50% of the time allotted to the prime contractor for submissions of documents and information to the government or for Seller's response to the government, and such FAR Clause, as modified, is hereby incorporated herein by reference and to the extent such FAR Clause conflicts with these Terms, the FAR Clause shall govern.

14. DISPUTES

For any dispute or claim that relates to a matter that gives the Buyer recourse against the government under the prime contract or applicable law, the Buyer agrees to sponsor Seller's claims (*e.g.*, an indirect appeal as described in FAR 44.203) for resolution before the applicable Board of Contract Appeals or the U.S. Court of Federal Claims. For sponsored claims exceeding \$100,000, Seller shall submit a certification to the Buyer that the claim is made in good faith, the supporting data are accurate and complete to the Seller's knowledge and belief, and the amount requested reasonably reflects the contract adjustment. Buyer and Seller will bear their own costs of pursuing claims and disputes. Buyer and Seller shall cooperate in good faith in pursuing such claims, and each shall pay their own costs in prosecuting the claim.

15. GOVERNING LAW

The rights and obligations arising under this agreement shall be governed by the laws of the Commonwealth of Massachusetts. Venue in any action arising hereunder shall lie in any court of competent jurisdiction in Massachusetts.