

Terms of Sale

Winchester Electronics Corporation, hereinafter "Seller," will supply the items and/or services identified on the face of this Quotation or Acknowledgment expressly conditional upon Buyers acceptance of the following terms. Seller, by its commencement of performance shall not prejudice the rights to enforcement of these conditions.

1. **ACCEPTANCE OF ORDER:** No purchase order shall be binding upon Seller unless and until accepted in writing by an authorized employee of Seller, or by performance. No terms or conditions of Buyer's purchase order or other similar instrument including without limitation price, delivery schedule, imposed provisions of the U.S. Federal Acquisition Regulations (FAR) or those similar regulations imposed by other branches of the government, which alter or are inconsistent with Seller's terms and conditions shall be binding upon Seller, nor shall apply to this transaction, unless specifically agreed to in writing by the Seller.
2. **PRICE AND DESIGN CHANGES:** Seller reserves the right to make changes in design at any time without incurring any obligation to provide such changes on units previously sold or to continue to supply obsolete items. Unless otherwise agreed in writing, the prices quoted are based upon manufacture of the quantity and types originally specified and are subject to revision for variations in quantity, specifications and/or delivery rates, or when interruptions or engineering changes are caused or requested by Buyer. Changes to an order following acceptance by Seller will not be effective until mutual agreement has been reached regarding the effect of such changes on price, delivery and other conditions of the order. Quoted prices do not include federal, state or local taxes and such taxes, if any will be added to the quoted prices and will be shown as a separate line item on invoices.
3. **MINIMUM ORDER VALUE:** The acceptable value of any order is as indicated on the face of our Quotation Form. Buyer's accumulation of a number of items into one purchase is authorized to reach this minimum.
4. **SHIPMENTS:** All supplies and services are sold E.X.W. (Ex Works), and the point of origin shall be the Seller's plant. Costs of normal boxing and packaging for domestic shipment are included in quoted prices. Method of shipment is as shown on the face of this Quotation or Acknowledgment, and unless specified otherwise; Seller normally will use the most convenient, least expensive surface transportation. When special domestic or export packing is specified, a change may be made to cover any extra expenses incurred. Seller assumes no responsibility for delay, breakage, damage or loss after its delivery to the carrier. Seller reserves the right to make partial shipments at its discretion. The delivery dates quoted are Seller's best estimate, which may be delayed due to engineering material acquisition or production delays and Seller disclaims any liability for direct, incidental, or consequential damages caused by said delays.
5. **TERMS OF PAYMENT:** Unless otherwise stated on the face of this document, terms of sale are "net 30 days" from date of invoice with no discount allowed for early payment. At

- any time when in its opinion the financial condition of the Buyer warrants, Seller may either alter or suspend credit, and in cases where credit is not established satisfactorily, or financial information is not available, the terms of sale shall be cash with order or C.O.D. at Seller's option. Each shipment shall be considered a separate and independent transaction and payment therefore shall be made accordingly. In addition to any other rights and remedies available to Seller, failure to pay any amount due within the time specified will result in a late charge of 1.5% per month being added to Buyer's account until final payment.
6. **RESCHEDULES:** The prices quoted are expressly for delivery dates negotiated. While Seller shall have no obligation to comply with unilateral directives to change schedules or temporarily cease work, Seller will endeavor to accommodate buyer's reasonable request for acceleration or deceleration, made at least forty-five (45) **business** days prior to scheduled delivery and stop work instructions not exceeding ninety (90) **calendar** days duration. Such changes or instructions, if accepted by Seller, shall require an equitable adjustment in the contract price or delivery schedule or both.
 7. **RAW MATERIAL AND SOURCE INSPECTION SURCHARGES:** The price of items containing precious metals, non-ferrous metals, magnetic materials and/or alloys thereof shall be subject to application of surcharge(s) at time of shipment, based upon fluctuations in the market value of such raw materials. Further, a surcharge may be applied to each shipment requiring inspection at Seller's plant by the government and / or Buyer's own inspection department or other private agency when concurrence with such inspection has otherwise been granted by Seller.
 8. **CUSTOM PRODUCT: All Cable Assembly products are considered Custom product, i.e., product for which the Buyer is the only user, is non-cancelable and cannot be rescheduled after receipt and acceptance of the order by the Seller.**
 9. **CANCELLATION FOR ALL PRODUCTS OTHER THAN CABLE ASSEMBLIES:** Any order, once accepted by Seller, shall not be subject to unilateral cancellation except Cancellation of the US Government, which shall be processed in accordance with the procedures established in FAR. **Orders may be pushed out once outside 45 business days from our acknowledged ship date, after which they are non-cancelable.** Cancellations received by us within 45 **business** days of our acknowledged ship date are subject to charges up to the full value. Buyer shall not cancel the order in whole or in part where non-conformity in any partial or installment delivery does not impair the value of the whole contract. In the event of cancellation for any reason, Seller shall not be liable for any incidental or consequential damages caused by such cancellation.
 10. **EXPORT REGULATIONS:** Buyer acknowledges that if the items purchased hereunder are to be exported, they are subject to the U.S. Commerce and/or State Department Export Regulations, and buyer accepts full responsibility for and agrees to comply fully with such regulations, including obtaining export licenses and re-export permission.
 11. **PATENT RIGHTS: Seller agrees to indemnify Buyer, its successor, assigns, agents and users of its products against loss, damage or liability, including costs and**

expenses, which may be incurred on account of any suit, claim, judgment or demand involving infringement or alleged infringement of any patent or unpatented right or inventions in the manufacture, use or disposition of any article or material supplied hereunder, provided Buyer shall promptly notify Seller of any suit instituted against it. At its option Buyer shall permit Seller to defend the same or make settlement in respect thereof.

12. **TECHNICAL DATA AND PROPERTY OF SELLER:** All designs (whether or not patentable), processes, software, technical information, drawings and/or confidential information, hereinafter "Technical Data". related to the items or services sold hereunder and not furnished by Buyer or specifically paid for by Buyer as a separate line item are the exclusive property of Seller, and all rights, title and interest in and to such property shall remain exclusively in Seller, notwithstanding Seller's disclosure of any thereof to Buyer or Buyer's payment to Seller for engineering or non-recurring charges. Buyer shall not use or disclose such Technical Data to any party without prior written consent of Seller. Likewise, title to all tools, test equipment, and facilities not furnished by Buyer or specifically paid for by Buyer as a separate line item shall remain in Seller. Unless otherwise specifically agreed in writing, Technical Data furnished under a U.S. government contract or subcontract will be furnished with "limited rights" under the provisions of FAR if the Buyer has not agreed to pay the entire cost of development of the delivered items and Technical Data involved. Unless it is separately purchased by Buyer, Seller shall not be obligated to furnish any Technical Data or to grant Buyer any patent, license or other rights to it.
13. **EXCLUSIVE WARRANTY AND REMEDY:** Seller warrants that each newly-manufactured article sold hereunder, and such portion of a repaired/refurbished article as has been repaired, refurbished or replaced by Seller, shall be free from defects in material or workmanship at time of shipment and for ninety (90) calendar days from the date of shipment shall perform in accordance with the specifications, if any incorporated herein. This warranty shall not extend to any article which upon examination by Seller is found to have been subjected to a) mishandling, misuse, tampering, negligence or accident, or b) installation, operation or maintenance which either was not in accordance with Seller's instructions or was otherwise improper, or c) repair or alteration by anyone other than Seller. Seller shall not be responsible for damage to any associated instruments, equipment, or apparatus. Should any failure to conform to this warranty be discovered and brought to Seller's attention within ninety (90) calendar days from the date of shipment and be substantiated by examination at Seller's factory or by authorized field personnel, then, at its own cost, Seller shall correct such failure, at its option, by repair or replacement of the non-conforming portion of such article or by return of the purchase price. Buyer agrees that this remedy shall be its sole and exclusive remedy against Seller and that no other remedy shall be available. In no event shall Seller be liable for special, incidental or consequential damages. Buyer shall notify Seller in writing of any alleged defect or failure in detail and expressing its desire to return such article under the remedy provided herein. No returns shall be accepted without prior approval by

Seller, and all articles returned to the Seller must be shipped in accordance with Seller's shipping instruction and with transportation charges prepaid. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ANY OTHER WARRANTIES, EITHER EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

14. **LIMITATIONS OF LIABILITY:** Seller shall not under any circumstances be liable for any general damages greater than the cost of the articles hereunder, or for any special, incidental or consequential damages whatsoever, whether arising from Seller's negligence, breach of contract, breach of expressed or implied warranty, any law giving rise to a claim of strict liability, or any other cause.
15. **FORCE MAJEURE:** Seller shall not be liable to Buyer or in breach of contract for any failure or delay in performance due to fire, flood, labor strike, work stoppage, commercial impracticability, war, act of God, or any other cause beyond the control of Seller.
16. **NON-WAIVER:** These terms and conditions set forth the entire understanding between the parties with reference to the subject matter hereof. The failure of Seller to enforce at any time any of the provisions hereof shall not constitute a waiver of such provision or a waiver of the rights to enforce the right to enforce any or all provisions at another time.
17. **APPLICABLE LAW:** This sale and the contract between the parties shall be deemed executed in and shall be construed in accordance with the laws of the State of Connecticut.
18. **TAXES:** Buyer agrees to pay any applicable sales or use taxes whether the taxes are separately invoiced or not, unless Buyer furnished Winchester Electronics with adequate tax exemption certification.
19. **SUBSTITUTION OF MATERIALS:** Seller reserves the right to make substitutions of materials without degrading the quality of product. Customer approval will be solicited when changes affect form, fit, or function.
20. **OVER AND UNDER SHIPMENTS:** We reserve the right to over or under ship by 10% of the ordered quantity per line item not to exceed \$50.00 in value.