

L-3 Communications EOTech Standard Terms of Sale

This Standard Terms of Sale (the "STS"), referenced by BUYER (defined as the party issuing the respective purchase order) upon its purchase order to L-3 Communications EOTech, Inc. (SELLER), hereby attaches and makes the following terms and conditions effective for said order.

1. **Relationship of the Parties.** The relationship of the parties hereto is solely that of SELLER and BUYER, and BUYER acting in the capacity of independent purchaser, whereby BUYER assumes all risks and costs for its actions hereunder.
2. **Order Entry and Acceptance of Firm Orders.** BUYER shall place orders referencing this STS without qualification. Seller shall confirm its acceptance of orders with delivery information. No order shall bind SELLER until duly accepted by SELLER. In the event BUYER fails to satisfy SELLER's credit requirements for payment, SELLER may: (i) require prepayment by the BUYER (ii) refuse to accept an order, and/or (iii) withhold delivery.
3. **Products.** "Product(s)" are defined as that good which is manufactured by SELLER and subsequently is sold and delivered to BUYER.
4. **Prices.** Product(s) will be offered to BUYER via SELLER's price quotation, and excludes and all taxes, duties and fees. BUYER shall assume responsibility for any and all tariffs, duties, value-added, withholding and all other taxes on shipments of Products and its manufacture, use and distribution of goods (except taxes based on the gross or net income of SELLER) or provide SELLER with a tax exemption certificate acceptable to the taxing authorities. On orders for shipment outside the United States, all required import duties, licenses and fees shall be payable by BUYER in addition to the stated prices. Delivery dates indicated on quotations are approximations only. Prices for Product(s) shall be those quoted, in effect, and agreed to at the time of order placement. If there is any delay in completion or delivery of an order due to any change requested by BUYER or as a result of BUYER caused delay in furnishing information required for completion or delivery of the order, the price is subject to change. Sales or other tax or duty which SELLER may be required to collect or pay upon the sale of Product(s) will be added to the invoice price.
5. **Payment.** Prior to or at the time of the delivery of Product(s), SELLER shall submit invoices to BUYER stating amounts due. Payment for Product(s) shall be made by BUYER in U.S. dollars to SELLER as specified below:
 - A. Payment for sales are to be made as stated on the sales order, net thirty (30) days from date of invoice, credit card, or a prepaid wire transfer with a confirmation of wires to SELLER, on the date payment is made via the following facsimile: 734-572-2306. A service charge of 1.5% per month, or the maximum lessor rate allowable under applicable law, shall be applied to all past due balances. SELLER shall maintain the unilateral right to offset any credits due for outstanding balances due.
 - B. Payment for sales from a BUYER located outside the U.S. and Canada, that have not established credit with the SELLER, shall be made via bank transfer (wire or irrevocable letter of credit) to: L-3 EOTech, Inc., Account # 716487699, JP Morgan Chase Bank, 1 Bank One Plaza, Chicago, IL 60670, ABA#021000021, **Domestic wires**, or L-3 EOTech, Inc. Account #716487699, J. P. Morgan Chase Bank, One Chase Manhattan Place, New York, NY 10006, ABA# 021000021, Swift Code, CHASUS33, **International Wires**, SELLER shall provide a proforma invoice document to BUYER detailing an itemized cost for the transaction. The letter of credit should be in a form for the benefit of and acceptable to SELLER, shall be issued and confirmed prior to shipment, and must be furnished by BUYER. Letter of credit requirements shall be furnished as required. All costs related to opening, confirming, extending, and modifying such letters of credit shall be BUYER's.
6. **Delivery, Packing, Shipping and Title.** Packing shall be in accordance with SELLER standard commercial practices. Products shall be delivered FOB SELLER's facility, Ann Arbor, Michigan, U.S.A. Partial deliveries are permitted and backorders will be delivered when Product becomes available, unless duly canceled in writing thirty (30) calendar days prior to delivery. SELLER shall utilize its carriers of choice and shipping costs will be invoiced accordingly. Shipping charges resulting from refused shipments will be immediately due and payable, including a 20% restocking fee of Product's invoice amount. In no event shall Seller's delivery of Product be defined as a transfer of intellectual property rights, patent license, or copyright.
7. **Warranty.** All L-3-EOTech products are crafted with pride in the USA. More importantly, they are manufactured with our customer's satisfaction in mind. L-3-EOTech warrants every product to be free from defects in materials and workmanship for a period of 2 years from the original date of purchase.

L-3-EOTech will promptly, repair or replace, at its option any product, which is defective in material or workmanship, without charge. L-3-EOTech requests that the purchaser send in a warranty card that is enclosed with the product shipment at the time of purchase. All of the costs that are associated with the product shipment will be incurred by the owner. L-3-EOTech products, to be repaired under the warranty service, must have a valid return authorization number; purchasers may obtain this number by calling L-3-EOTech's Customer Service Department at 734-741-8868 during normal business hours. All product must be sent to:

L-3 Communications- EOTech
Customer Service Department
1201 E. Ellsworth Road
Ann Arbor, MI 48108
Reference: RA#

This warranty does not cover defects caused by improper handling, installation or maintenance, abnormal use or unapproved alterations. L-3-EOTech shall not, in any event, be liable for any damages, including any lost profits, lost savings, or other incidental or consequential damages arising out of the use or inability to use such products. This warranty gives the owner certain legal rights, and possibly other rights, which vary from state to state.

8. **Limitation of Liability.** SELLER's liability and BUYER's sole and exclusive remedy for damages for any claim with respect to a sale, or any supplemental sale of Product(s) or their use or nonuse, or delivery or non-delivery, regardless of legal theory, will not be greater than 10% of the actual purchase price of the Product(s) with respect to which such a claim is made. UNDER NO CIRCUMSTANCES WHATSOEVER WILL SELLER BE HELD LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, COSTS OF REMOVAL/REINSTALLATION, LOSS OF GOODWILL OR REVENUES OR PROFITS, LOSS OF USE, INJURY, OR INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT, TRADEMARK OR COPYRIGHT.
9. **Product Changes and Discontinuance.** SELLER shall endeavor to provide notification of changes in Product's form, fit, function, specifications or discontinuance, however SELLER shall have the right to make any changes or modifications to, or to discontinue, any Product(s) at any time, and SELLER has no obligation and/or liability for failure to notify BUYER.
10. **Patents/Copyrights.** SELLER shall indemnify BUYER against a claim, limited to the value of an applicable order, that Product(s) directly infringe a U.S. patent or copyright, except for any claim based upon the combination of the Product(s) with other elements if such infringement would be avoided by the use of the Product alone, nor does the indemnity extend to any article of BUYER's design or formula or Products modified by BUYER and/or its customers. BUYER shall notify SELLER promptly as to any known or reasonably suspected claims of infringement of any copyrights, patent rights other proprietary rights relating to the Products. SELLER may, in its sole discretion, decide to take or not to take whatever course of action it deems appropriate in connection therewith. If SELLER elects to protect or enforce such rights (whether identified by BUYER or otherwise) by taking legal action,

BUYER agrees to provide reasonable cooperation at SELLER's request and expense in connection with any such action. If SELLER initiates and prosecutes any legal cause of action related to such infringement, all legal expenses (including court costs and attorneys' fees) shall be for SELLER's account and SELLER shall be entitled to all amounts awarded by way of judgment, settlement or compromise.

11. **Ownership.** Notwithstanding anything other provision herein, SELLER (and its licensors or other suppliers, as applicable) retains (i) all copyrights, patent rights, trade secret rights as well as any and all other proprietary rights in or to the Products, Software, all documentation and other related materials, and all copies and derivative works thereof (by whomever produced), (ii) all service marks, trademarks, trade names or any other designations of SELLER, and (iii) all title to, and, except as expressly licensed herein, all rights to the Software components and portions of the Products.
12. **Indemnity.** BUYER shall indemnify SELLER, its directors, officers, employees, attorneys and agents from, and hold each harmless against, any and all losses, liabilities, claims, damages or expenses incurred arising out of or by reason of any claim, investigation, litigation or other proceedings, including any threatened investigation or litigation or other proceedings, relating to any act or service performed by the BUYER hereunder, including without limitation the reasonable fees and disbursements of counsel incurred in connection with any such investigation or litigation or other proceedings (but excluding any such losses, liabilities, claims, damages or expenses incurred by reason of the gross negligence or willful misconduct of the entity to be indemnified).
13. **Termination.** Either party may terminate an order under this STS, without liability to the other party if the other party: (a) materially breaches an order or this STS, and does not correct such breach within thirty (30) calendar days after written notice detailing such breach, (b) becomes insolvent, or enters or is placed in bankruptcy, receivership, liquidation, or transfer assets for creditor's benefit, or is dissolved, provided such event is not cured nullified within thirty (30) calendar days of event effectuation, or (c) material assets necessary for business operation become subject to attachment, embargo or expropriation. Upon STS termination, all accounts shall be reconciled, whereby all amounts due SELLER are immediately due.
14. **Force Majeure.** SELLER's delay or failure to perform its obligations under this STS or any order shall be excused to the extent that it is caused by any force majeure event. Such as any event beyond the reasonable control of SELLER, inclusive of Acts of God, war, civil unrest, strike, embargo, whether, etc.
15. **Legal Compliance.** SELLER and BUYER, respectively, shall be responsible for compliance with and for the obtaining of such approvals and/or permits as may be required under national, state, and local laws, ordinances, regulations, and rules applicable to their performance, non-performance, execution, and/or enforcement under this STS and related orders, and shall be responsible for complying with all applicable laws and regulations which apply to the Products and/or BUYER's Goods, including, without limitation, those applicable to claims, labeling, approvals, registrations and notifications pertaining to the Products and/or BUYER's Goods. BUYER shall comply with the U.S. Foreign Corrupt Practices Act (regarding among other things, payments to government officials) as well as all export laws, restrictions, national security controls and regulations of the United States or other applicable foreign agency or authority, and not to export or re-export, or allow the export or re-export of any Product and/or Goods, proprietary material, technology or device or any copy, portion or derivative thereof in violation of any such restrictions, laws or regulations, or, in violation of the embargo provisions of the U.S. Export Administration Regulations (or any successor regulations or supplement thereto), except in compliance with and with all licenses and approvals required under applicable export laws and regulations, including without limitation, those of the U.S. Department of Commerce.
16. **Language, Governing Law and Disputes.** THIS STS SHALL BE INTERPRETED IN THE ENGLISH LANGUAGE, GOVERNED BY AND CONSTRUED ACCORDING TO THE LAWS OF THE STATE OF MICHIGAN, U.S.A., AND EXCLUDES APPLICATION OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS. Both parties consent to Michigan as the sole jurisdiction and venue for actions arising hereunder. If BUYER'S end user is an agency or instrumentality of the United States Government: Software is provided with Restricted Rights under FARS and DFARS; the Software has been developed at private expense; no portion of the Software has been developed with U.S. Government funds; the Software is a trade secret and proprietary information of SELLER; and the ownership of the Software and any reproductions shall remain with SELLER. Use, duplication or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights at 48 CFR 52.227-19, as applicable.
17. **Severability.** If any provision contained herein shall be held to be invalid, illegal, or unenforceable under any statute, regulation, ordinance, executive order, or other rule of law, that provision shall be deemed severed to the extent necessary for compliance therewith.
18. **Assignment.** Buyer may not assign any of its rights or delegate any of its obligations under this STS without first obtaining the prior written consent of SELLER.
19. **Software.** "Software" is defined as machine-readable code or firmware, which is owned by or licensed to SELLER, and resides in Product. The Recipient is not authorized to reproduce, copy, modify, repair, decompile, reverse engineer, disassemble, reverse translate, or in any manner decode the Software. BUYER agrees to include and enforce terms no less stringent to its customers. _
20. **Entire Agreement.** The STS and any order referencing the same shall constitute a complete and exclusive final written expression of all the terms of agreement between the parties, and shall supersede all understandings and negotiations concerning the matters specified herein. Any representations, promises or warranties, or other terms and conditions made by either party that differ in any way from the terms of the STS shall be given no force or effect. No addition to or modification of this STS shall be binding unless made in writing and signed by both parties.