

Ultra Electronics Advanced Tactical Systems, Inc.
TERMS AND CONDITIONS OF SALE

1. Scope. The following terms and conditions (“Agreement”) apply to the sale of all products and services (“Products”) delivered or provided by Ultra Electronics Advanced Tactical Systems, Inc. (“Ultra”), a Texas corporation, pursuant to (a) any quotation, purchase order acceptance or other writing attaching or incorporating by reference this Agreement or (b) any other purchase order or contract accepted by Ultra.

2. Prices. Prices for Products are set forth in Ultra’s proposal, which can be changed at any time upon prior written notice to Buyer. Quoted prices are exclusive of all taxes, freight, duties, and other applicable charges which shall be paid by Buyer. Any taxes, duties, fees, charges or assessments of any nature levied by any governmental authority in connection with any transaction under this Agreement, whether levied against Buyer, against Ultra or its employees, or against any of Ultra’s subcontractors or their employees, shall be the responsibility of Buyer and shall be paid directly by Buyer to the appropriate governmental authority. If Ultra or its subcontractors, or the employees of either, are required to pay any such levies, fines, penalties, or assessments, then Buyer shall reimburse such payor promptly upon submission of the applicable documents.

3. Changes. Within thirty (30) days of receipt by Ultra from Buyer of a request for change to the scope of work of an accepted purchase order or contract, Ultra shall respond in writing stating the consequences of such requested change. If such requested change causes an increase or decrease in the cost of the Products or the time required for performance, an equitable adjustment reasonably determined by Ultra shall be made in the price and/or the time required for performance. Such price adjustment may include but not be limited to rework charges associated with the requested change. Ultra shall have the right in its sole discretion to accept or reject any such requested change and shall not be required to proceed with the change unless the parties have mutually agreed, in writing, to the consequences of the change. All approved change orders shall be considered amendments to the applicable purchase order. If a requested change is not accepted by Ultra, the original purchase order shall remain in effect.

4. Payments.

All orders are subject to Ultra’s approval of Buyer’s credit. All payments shall be made in United States dollars, net thirty (30) days from date of invoice. All payments received after thirty (30) days shall accrue interest at the rate equal to the lesser of one and one-half percent (1.5%) per month or the maximum legally permissible rate.

5. Transportation. Deliveries of Products shall be FOB Destination Freight Prepaid.

6. Title and Risk of Loss. Title to the Products shall pass to Buyer upon Ultra’s delivery of the Products to Buyer’s Ship To location. Buyer hereby grants Ultra a security interest in the Products until the invoice covering the Products has been paid in full. Ultra shall bear the risk of loss or damage until the Products are delivered to Buyer’s Ship To location.. Upon Ultra’s delivery to Buyer’s Ship To location, Buyer shall bear the entire risk of loss and shall be liable for all loss or damage to the Products.

7. Inspection. Unless Buyer notifies Ultra in writing within thirty (30) days from date of shipment of any Products that said Products are rejected, Products shall be deemed to have been accepted by Buyer. In order for a notice of rejection to be effective, Buyer must specify in detail why the Products are rejected. Buyer shall only have the right to reject Product for “defects,” as defined in Section 10 below.

8. Force Majeure. Ultra shall not be liable for any failure to perform or other loss due to unforeseen circumstances or causes beyond its control, including without limitation acts of God, strikes, material and/or transportation shortages, natural casualties, governmental regulations, war, fire, flood, disasters and civil unrest.

9. Warranty. Ultra agrees to repair or replace hardware products that fail due to a defect during the established Warranty Period of each Product (12 months). For purposes of this Agreement, the term “defect” shall mean the Product fails to operate or fails to conform to its specifications agreed to in writing by Ultra. Any claim made pursuant to this Agreement shall be asserted or made in writing only by Buyer, not by any of Buyer’s customers or end users. Buyer shall contact Ultra Customer Support at SystemS&CS@ultra-ats.com to initiate the Return Material Authorization (RMA) process for any system under warranty that fails to operate properly. This limited warranty only covers repairs at Ultra’s facilities; it does not include labor, transportation or other expenses to repair or reinstall warranted Products on site or at Buyer’s premises. This warranty excludes any and all delivered software.

Ultra reserves the right to investigate any warranty claims in order to quickly resolve the problem or to determine whether or not such claims are proper. If after repeated efforts Ultra is unable to repair or replace a defective Product, Buyer’s exclusive remedy and Ultra’s entire liability in contract, tort or otherwise shall be payment by Ultra to Buyer the amount of Buyer’s reasonable out-of-pocket damages. In no case, however, shall such payment exceed the total of the purchase price, tax, freight and insurance paid by Buyer for the defective Product.

This limited warranty shall not apply to any Product, or parts thereof, that (a) has had the Serial Number, Model Number, or other identification markings altered, removed or rendered illegible; (b) has been damaged by or subject to improper installation or operation, misuse, accident, neglect and/or has been used in any way other than in strict compliance with Ultra’s operation and installation manual; (c) has become defective or inoperative due to its integration or assembly with any equipment or products not supplied by Ultra; (d) has been repaired, modified or otherwise altered by anyone other than Ultra, and/or has been subject to the opening of any sealed cabinet boxes or covers without Ultra’s prior written consent. If any warranty claim by Buyer falls within any of the foregoing exceptions, and Buyer requests repair of the defective Product, Buyer shall pay to Ultra its current rates and charges for such repair services.

THE ABOVE WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT OF THIRD-PARTY RIGHTS, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. PLEASE REFER TO THE WARRANTY POLICY AND PROCEDURES CONTAINED IN ULTRA’S OPERATION AND INSTALLATION MANUAL.

10. Confidentiality. The design, production and operation of the Products, in any form, are proprietary information and trade secrets of Ultra (“Proprietary Rights”), and such Proprietary Rights shall not be disclosed or otherwise transferred by Buyer or Buyer’s employees to any other person or entity at any time. Buyer shall not modify, reverse engineer, improve or

otherwise change any Product or parts thereof, or any of Ultra's Proprietary Rights related thereto, and shall not use, appropriate or copy any of Ultra's Proprietary Rights, either for itself or for others. Buyer shall not incorporate or in any way use any of Ultra's Proprietary Rights or confidential information (disclosed separately or embodied in any of the Products) in its or any other party's products or businesses.

11. Property Rights. Ultra shall solely own and have exclusive worldwide rights, title and interest in and to all United States and foreign patents, trademarks, service marks, copyrights, mask works, trade secrets, and all other intellectual and industrial property rights in any way related to the Products, to Ultra's Proprietary Rights, and to all modifications, improvements and derivative works related thereto. Title to all of Ultra's Proprietary Rights embodied in the Products shall always remain with Ultra, and Buyer's use thereof shall be restricted under a non-exclusive license granted by Ultra. Subject to Buyer's performance of all obligations hereunder, Ultra hereby grants to Buyer a personal, non-exclusive, non-transferable and indivisible license to use Ultra's Proprietary Rights only as they are embodied in the Products and for no other purpose. Buyer shall not remove Ultra trademark notices, copyright notices, patent markings or mask work notices on or in the Products or on any other materials supplied by Ultra. Paragraphs 11 and 12 shall survive the termination of this Agreement, and shall be specifically enforceable by injunctive and other relief against Buyer in the event of Buyer's breach since both parties agree that Ultra will be irreparably harmed and money damages would be inadequate compensation to Ultra for Buyer's breach. In the event of such breach, Ultra shall be entitled to injunctive relief against Buyer in addition to any other remedies to which it is entitled.

12. Limitation of Liability. ULTRA SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL OR EXEMPLARY DAMAGES SUFFERED BY BUYER AND/OR ANY END USER RELATED TO OR ARISING OUT OF THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREBY AND/OR THE USE OR INABILITY TO USE THE PRODUCTS, INTEGRATION OF THE PRODUCTS WITH EQUIPMENT NOT PROVIDED BY ULTRA, LOSS OF GOODWILL OR PROFITS AND/OR FROM ANY OTHER CAUSE WHATSOEVER, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL ULTRA'S LIABILITY FOR ANY CAUSE OF ACTION RELATING TO THIS AGREEMENT EXCEED AMOUNTS RECEIVED BY ULTRA FROM BUYER FOR THE PRODUCT OR SERVICE THAT IS THE SUBJECT OF SUCH CLAIM OR DISPUTE. ULTRA AND BUYER FURTHER AGREES THAT EACH AND EVERY PROVISION OF THIS AGREEMENT WHICH PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES OR EXCLUSION OF DAMAGES IS EXPRESSLY INTENDED TO BE SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION SINCE THOSE PROVISIONS REPRESENT SEPARATE ELEMENTS OF RISK ALLOCATION BETWEEN THE PARTIES, AND SHALL BE SEPARATELY ENFORCED. BOTH PARTIES ALSO AGREE THAT THE PRICE OF THE PRODUCTS REFLECTS THE ALLOCATION OF RISK, WARRANTY AND LIMITATION OF LIABILITY PROVISIONS HEREIN. UNLESS OTHERWISE AGREED IN WRITING BY ULTRA, THE ULTRA PRODUCTS SOLD HEREUNDER ARE NOT DESIGNED NOR INTENDED FOR ANY USE IN MEDICAL, LIFE SAVING OR LIFE SUSTAINING APPLICATIONS WHICH THE FAILURE OF THE ULTRA PRODUCT COULD CREATE A SITUATION WHERE PERSONAL INJURY OR DEATH MAY OCCUR.

Should Buyer purchase or use Ultra's Products for any such unintended use, Buyer shall indemnify and hold Ultra and its directors, officers, employees, subsidiaries, subcontractors and affiliates harmless against all claims, costs, damages, and expenses, and reasonable attorney

fees arising out of, directly or indirectly, any claim of product liability, personal injury or death associated with such unintended use, even if such claim alleges that Ultra or its sub-contractor was negligent regarding the design or manufacture of the Ultra Product or any of its parts.

13. Waiver. Ultra shall not waive any default of any provision of this Agreement unless Ultra signs a written waiver.

14. Indemnity. Buyer shall indemnify, defend and hold Ultra harmless from all claims, damages, expenses, liabilities and losses, including without limitation attorney's fees and costs incurred that in any way arise out of or relate to (a) the manner in which Buyer and/or any of its customers or end users use or operate the Products; (b) any personal injuries, property damages or other losses resulting or occurring from the willful or negligent acts or omissions of Buyer, its customers or end users; (c) defects or other problems with other component parts, equipment or materials produced or supplied by anyone other than Ultra and that may be used with the Products; and/or (d) Buyer's transactions with its customers, end users or other parties regarding the Products.

15. Termination. Buyer shall not terminate or cancel any order, or portion thereof, after it is given to Ultra without Ultra's prior written consent in its sole discretion and subject to the condition that Buyer pays to Ultra the sum of (1) the price of all Products previously delivered to Buyer, (2) Ultra's actual costs incurred as a result of such termination (e.g., purchase of raw materials and other obligations), which Ultra will attempt to keep as low as possible, and (3) a cancellation fee of twenty percent (20%) of such actual costs.

16. Attorney's Fees. In the event a dispute arises regarding this Agreement or the Products, the prevailing party shall be entitled to recover from the unsuccessful party actual attorney's fees and costs incurred.

17. Entire Agreement. By submitting its purchase order or contract for Products, Buyer agrees to all of the provisions of this Agreement. This Agreement is the sole and entire agreement between the parties (except for the price or the shipment schedule for the Products contained in Ultra's quotation or Buyer's purchase order accepted by Ultra which shall incorporate the terms of this Agreement) and shall supersede all prior or contemporaneous written or oral understandings, representations or communications and/or other terms in any purchase order or other document, now or hereafter delivered. The provisions of this Agreement shall apply to any and all purchase orders or requests for Products submitted by Buyer to Ultra at any time in the future, without the need for either party to execute this Agreement. No modification of this Agreement shall be valid unless in writing and signed by an authorized representative of Ultra.

18. Governing Law. This Agreement shall be construed and enforced according to the laws of the State of Texas.

19. Export. Buyer shall not directly or indirectly export, transfer or in any way distribute any of the Products, or parts thereof, or any of Ultra's Proprietary Rights or technical data to any country or territory that is prohibited from receiving such materials under any applicable law of the United States. Buyer shall comply with all applicable laws and regulations, including, without limitation, all of the laws and regulations of any applicable agency of the United States government responsible for the administration of the United States export control laws and regulations and the United States Foreign Corrupt Practices Act of 1977, as amended. Buyer shall also be responsible for obtaining all export licenses or other approvals required to export

or re-export the Products outside the United States. Buyer further indemnifies, defends and holds Ultra harmless from all damages, claims, expenses, liabilities and losses including without limitation attorney's fees and costs that in any way arise out of or relate to Buyer's breach of this warranty and/or failure to comply with the provisions of this Section 21. Ultra shall not be liable in the event any authorization of any governmental authority is delayed, denied, revoked, restricted and not renewed, and Buyer shall not be relieved thereby of its obligations to pay Ultra for its Products or any other charges which are the obligations of Buyer under this Agreement.

20. Integration of Equipment. Ultra shall not be liable for any damages or costs associated with the integration, installation or incorporation of the Products with equipment or materials not provided by Ultra.

21. Authority. The persons executing purchase order(s) on behalf of Ultra and Buyer warrant and represent that they have been authorized by their respective board of directors or other governing bodies to bind their respective companies to all of the provisions of the purchase order(s) and this Agreement.

22. Survival. All of the provisions of Section 11, 12, 13, 15 and 21 of this Agreement shall survive the termination or expiration of this Agreement.

23. Assignment. Buyer shall not assign, transfer or otherwise encumber this Agreement or any part thereof without Ultra's prior written consent.

24. Severability. If any provision of this Agreement is held by an arbitrator or a court of competent jurisdiction to be void, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

25. Changes to These Terms and Conditions. Any changes to these terms and conditions must be agreed to in writing by Ultra's authorized signatory.