

OFFER TO SELL – TERMS AND CONDITIONS

1. **CONTRACT FORMATION:** If this offer to sell is issued by Seller prior to the issuance of a purchase order by Buyer, **ACCEPTANCE OF THIS OFFER TO SELL IS EXPRESSLY LIMITED TO ACCEPTANCE BY BUYER OF ALL OF THE TERMS AND CONDITIONS CONTAINED HEREIN.** Any terms contained in Buyer's purchase order or any other form or communication received from Buyer that are in addition to or different from the terms and conditions contained herein are expressly objected to and shall be deemed rejected by Seller, unless expressly accepted in writing by seller. Unless Seller receives written notice from Buyer of any objection hereto within fifteen (15) days after the date of Buyer's receipt of this Offer to Sell, and in all events prior to any delivery or other performance by Seller hereunder, any subsequent conduct of Buyer that expresses an intention to purchase the goods described herein shall constitute an unconditional acceptance by Buyer of all the terms and conditions of this Offer to Sell.

If Buyer issues a Purchase Order in response to or in acknowledgement of this Offer to Sell, which does not effectively state that it is expressly conditional on assent by Seller to all of the additional and different terms and conditions contained therein, and if this Offer to Sell and Buyer's Purchase Order are in substantial agreement with regard to the "bargained terms" (usually including, but not limited to, quantity, description, price, payment terms, shipping instructions, etc.), Buyer's Purchase Order will constitute an acceptance of all of the terms and conditions of this Offer to Sell and the writings of the parties will establish a contract for the purchase and sale of the goods described herein.

If Buyer issues a Purchase Order in response to or in acknowledgement of this Offer to Sell, which effectively states that it is expressly conditional on assent by Seller to all of the additional and different terms and conditions contained therein, Seller does not affirmatively assent in writing to such terms and conditions, and Buyer accepts Seller's performance hereunder. Buyer shall be deemed to have waived the express condition that all such additional and different terms and conditions be assented to by Seller. All Purchase Orders issued by Buyer will be subject to approval by Seller.

If this Offer to Sell is issued by Seller subsequent to the issuance of and in response to or in acknowledgement of a Purchase Order by Buyer, acceptance by Seller of such Purchase Order is expressly conditional on assent by Buyer to all of the additional and different terms and conditions contained here. If such Purchase Order effectively states that acceptance by Seller of such Purchase Order is expressly limited to the terms and conditions contained therein, Seller does not affirmatively assent in writing to such terms and conditions. If Buyer accepts Seller's performance hereunder, Buyer shall be deemed to have waived the express condition that acceptance by Seller of such Purchase Order be limited to the terms and conditions contained therein.

2. **CANCELLATION BY BUYER:** Buyer shall not have the right to cancel or suspend all or any undelivered or unexecuted portion of this Offer to Sell. If, contrary to the prohibitions of this paragraph, Buyer expressly or, by Buyer's actions or omissions, impliedly cancels or suspends all or any such undelivered or unexecuted portion of this Offer to Sell, Buyer agrees to make payment to Seller, immediately upon demand for payment by Seller, of all outstanding invoices (including charges for interest, packaging, and shipping) and of Seller's expenses which in any way result from or are attributable to any such cancellation or suspension.

3. **PACKAGING, LABELING AND SHIPPING:** Unless and only to the extent otherwise agreed by Seller, Seller will package the goods, at Buyer's expense, so as to avoid any damage in transit, identify the goods by displaying Buyer's name and Purchase Order number on each unit or package shipped and ship the goods, at Buyer's expense, at the then prevailing transportation rates for the mode of shipment requested by Buyer, if any, or selected by Seller. If the goods are shipped at Seller's expense, Seller shall pay shipment charges based upon the transportation rates that are in effect for the designated route and carrier on the date of this Offer to Sell and Buyer shall pay Seller the difference, if any, between such shipment charges and the actual shipment charges incurred by Seller.

4. **DELIVERY:** Unless and only to the extent otherwise agreed by Seller, Seller shall deliver the goods to Buyer or Buyer's agent free on board (F.O.B.) at Seller's plant or other point of shipment designated by Seller on the date of the availability of the goods for shipment, which date shall be determined in Seller's sole discretion, or if applicable, at such other time and/or place as shall be specified pursuant to Buyer's written instructions which are agreed to in writing by Seller. Regardless of whether Buyer or Seller is to pay shipment charges, Buyer hereby authorizes any truck, rail or other carrier to whom delivery of goods is made hereunder to act as Buyer's agent for the purpose of acceptance of possession of such goods, allocation of risk of loss, and transfer of title. SELLER MAY, FROM TIME TO TIME, MAKE PARTIAL DELIVERIES OR CHANGE OR TEMPORARILY SUSPEND DELIVERY SCHEDULES, ESTIMATED DELIVERY DATES ARE APPROXIMATE AND ARE DEPENDENT UPON MANY FACTORS INCLUDING, BUT NOT LIMITED TO, SELLER'S ABILITY TO OBTAIN THE NECESSARY RAW MATERIALS, SELLER'S SUBCONTRACTORS, IF ANY, MEETING SCHEDULED DELIVERY DATES, AND SELLER'S PROMPT RECEIPT OF ALL INFORMATION NECESSARY TO PERMIT SELLER TO PROCEED WITH WORK IMMEDIATELY AND WITHOUT INTERRUPTION SELLER SHALL HAVE NO LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES DUE TO DELAYS IN DELIVERY. Claims for shortages, damages or other errors in delivery must be made in writing to Seller within ten (10) days after receipt of each shipment. Failure to give such notice shall constitute acceptance of each such shipment and a waiver of all such claims by Buyer. Claims for loss or damage to goods in transit by common carrier must be made to such carrier and not to Seller.

5. **RISK OF LOSS AND TITLE:** Risk of loss to goods will be borne by and title to goods will pass to Buyer from the point and at the time of delivery specified in paragraph 4 hereof.

6. **FORCE MAJEURE:** In the event of the existence, happening or continuance of any contingency preventing or substantially interrupting or curtailing the ability of Seller or Seller's suppliers to perform the work required under this Offer to Sell including, but not limited to, fire, theft, accident, war, order, act, authority, regulation or request of or threat thereof by any federal, state or local unit of government or department or agency thereof, judicial action, industrial disturbance, shortage of labor, fuel, power, components, facilities or raw materials, delay of suppliers, act of or omission to act by Buyer, restriction or lack of transportation facilities, failure or delay in transportation, act of God, breakage or accident to machinery or equipment, involuntary or voluntary shutdown of Seller's production facilities or any cause beyond the reasonable control of Seller, Seller shall not be under any obligation during the period of such prevention, interruption or curtailment to continue production or make delivery of any goods described herein. If any period of such prevention, interruption or curtailment to continue production or make delivery of any goods described herein is caused, in whole or in part, directly or indirectly, by an act of or omission to act by Buyer, Buyer shall pay to Seller all additional charges resulting therefrom. Seller will be entitled to an extension of time for performance of its obligations equal to the period of such prevention, interruption or curtailment.

Upon the occurrence of any such contingency, Seller may, but is under no obligation to, allocate production and delivery among Seller's customers. If Seller, in Seller's sole discretion, determines that Seller's performance hereunder would result in a loss to Seller on this sale, as computed under Seller's normal accounting procedures, because of causes beyond Seller's control, then Seller may terminate this Offer to Sell, in whole or in part, without liability for loss or damage of any nature whatsoever including, but not limited to, incidental and consequential damages for any delay in the delivery of or failure to deliver the goods otherwise to be said to Buyer hereunder.

7. **PRICES:** Unless and only to the extent otherwise agreed by Seller, all prices for goods are exclusive of any charges for packaging, shipping, technical advice, or other necessary services incidental to Seller's performance hereunder. All such charges will be made in accordance with rates established by Seller on or prior to the date on which the services to which they apply are rendered and are subject to change without notice at any time prior to such date. All prices for goods are subject to change without notice at any time prior to the date of the availability of the goods for shipment or, if applicable, such other time as shall be specified pursuant to Buyer's written instructions, which are agreed to in writing by Seller, to prices prevailing on such date. If Seller's price for the goods described herein is based upon delivery to and acceptance by Buyer of a specified quantity of goods, such price shall be subject to adjustment if Buyer does not accept the applicable quantities of goods at the times specified herein and Buyer will be invoiced at Seller's price for such goods prevailing on the date of the availability of such goods for shipment without quantity discounts, if any, for the quantity of goods actually accepted by Buyer.

8. **TAXES:** All prices are exclusive of any applicable present or future domestic or foreign federal, state or local manufacturer's, retailer's, occupation, sales, use, excise or other similar taxes, duty, custom, inspection or testing fees, or any other taxes, fees, or charges of any nature whatsoever which may be imposed by any governmental authority on or which are measured by this transaction between Buyer and Seller. All such taxes shall be borne by Buyer and will be paid by Buyer to Seller upon submission of Seller's invoices. In the event Seller is required to pay any such taxes, fees or charges, Buyer shall promptly reimburse Seller therefore upon submission of Seller's invoices or, in lieu of such payment, buyer shall provide to Seller at or prior to the time of contract formation an exemption certificate or other similar document acceptable to the governmental authority imposing such tax, fee or charge the effect of which is to exempt Seller from the duty to remit such taxes, fees or charges to such governmental authority.

9. **CREDIT:** All sales are subject to the approval of Seller's credit department. Seller may, at any time and from time to time and without prejudice to Seller's other legal and equitable remedies, suspend or terminate performance or delivery hereunder or require full or partial payment in cash or by letter of credit prior to delivery, security, guarantees or other adequate assurance satisfactory to Seller, when, in Seller's opinion the financial condition of Buyer or other grounds for insecurity warrant such action. In the event of buyer: (i) becoming insolvent; (ii) being unable, or admitting in writing its inability, to pay its debts as they mature; (iii) failing to promptly lift any execution, garnishment or attachment of such consequence as will, in the judgment of Seller, impair the ability of Buyer to carry on its business operations; (iv) making a general assignment for the benefit of creditors or to an agent authorized to liquidate any amount of its property; (v) entering into an agreement of composition with its creditors; (vi) becoming the subject of an "order for relief" within the meaning of the U.S. Bankruptcy Code; (vii) filing a petition in bankruptcy or for reorganization or to effect a plan or other arrangement with creditors under the provisions of the U.S. Bankruptcy Code, or under any similar act in any domestic or foreign jurisdiction which may now be in effect or hereafter enacted; (viii) filing an answer to a creditor's petition (admitting the material allegations thereof) for reorganization or to effect a plan or other arrangement with creditors; (ix) applying to a court for the appointment of a receiver for any of its assets; (x) having a receiver appointed for any of its assets (with or without the consent of Buyer) and such receiver not being discharged within sixty (60) days after his/her appointment; or (xi) failing to make any payment hereunder when due, then the entire contract price hereunder, including, but not limited to, any and all charges for packing, shipping, and interest, shall immediately become due and payable without notice to Buyer.

10. **INVOICES:** Invoices will be rendered as of the date of the availability of all or any portion of the goods for shipment or, if applicable, at such other time as shall be specified pursuant to Buyer's written instructions that are agreed to in writing by Seller or, if applicable, on the date specified in any invoice and or payment schedule agreed to by Seller.

11. **PAYMENT:** Unless Buyer and Seller agree to terms other than those specified herein, payment will be made in U.S. Dollars to the specified address noted on your invoice within thirty (30) days after the date of the availability of all or any portion of the goods for shipment or, if applicable, at such other time as shall be specified pursuant to Buyer's written instructions that are agreed to by Seller in writing. Finance charges may apply on any overdue invoice. Finance charges are computed on the basis of 1.5% per month or 18% per annum, or the maximum amount permitted by law, whichever is less. A \$25.00 charge will be assessed for returned checks.

12. **WARRANTIES:** SELLER MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS, IMPLIED (EXCEPT TITLE) STATUTORY, ARISING BY OPERATION OF LAW OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH REGARD TO THE GOODS SOLD AND SERVICES, IF ANY, PROVIDED HEREUNDER. BUYER ACKNOWLEDGES THAT IT ALONE HAS DETERMINED THAT THE GOODS PURCHASED HEREUNDER WILL SUITABLY MEET THE REQUIREMENTS OF THEIR INTENDED USE, NO EMPLOYEE, REPRESENTATIVE OR AGENT OF SELLER IS AUTHORIZED TO ALTER OR MODIFY ANY PROVISION OF THIS PARAGRAPH 12 OR TO MAKE ANY GUARANTEE, WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, ORALLY OR IN WRITING, WHICH IS CONTRARY TO THE FOREGOING.

13. **RETURN OF GOODS:** All claims for damages, errors or shortages in goods or services delivered by the Seller to Buyer under the sales order shall be made by the Buyer in writing within a period of five (5) business days from the time of delivery. The passing of this period constitutes an irrevocable acceptance of the goods and an admission that such goods fully comply with all terms, conditions and specifications set forth in the sales order.

Buyer shall have no right to return goods to Seller without Seller's written authorization to do so and shipping instructions. Unless otherwise agreed by Seller, any such return of goods to Seller shall be at Buyer's expense. Seller's physical possession of such goods pursuant to an authorized return shall not alter the allocation of risk of loss or passage of title to the goods specified in paragraph 5 hereof.

14. **TECHNICAL ADVICE:** Seller shall not be liable for any ordinary, proximate, incidental or consequential damages arising directly or indirectly from any technical advice furnished or suggestions or recommendations made by Seller concerning the installation, maintenance, repair, replacement adjustment use, suitability or application of any goods, furnished under this Offer to Sell regardless of whether such technical advice is given or recommendations are made prior to or after substantial completion, final inspection or initial use of such goods. The limitation of liability contained in this paragraph 14 shall survive the completion of the work to be performed by Seller under this Offer to Sell and shall apply to all technical advice given and recommendations made by Seller thereafter with regard to the goods furnished under this Offer to Sell.

15. **LIMITATION OF SELLER'S LIABILITY:** SELLER'S LIABILITY FOR ANY LEGAL CLAIM, WHETHER IN CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE AND STRICT LIABILITY, WHETHER SOLE OR CONCURRENT) OR OTHERWISE, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM THE MANUFACTURE, SALE, DELIVERY, RESALE, REPAIR, REPLACEMENT OR USE OF THE GOODS SOLD BY SELLER HEREUNDER SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF SUCH GOODS OR SERVICES AND ALSO SHALL BE LIMITED TO, AT SELLER'S OPTION, REPLACING OR REPAIRING OR ISSUING A CREDIT OR REFUND FOR THAT PART OF THE PURCHASE PRICE OF SUCH GOODS OR SERVICES WHICH IS ALLOCABLE TO THE PART OR PARTS OF THE GOODS OR ANY SERVICES RELATED THERETO WHICH GIVE RISE TO SUCH CLAIM. BUYER SHALL INSPECT AND PERFORM ANY NECESSARY TESTS OF THE GOODS SOLD HEREUNDER PRIOR TO ANY USE THEREOF BY

BUYER TO BE DEFECTIVE, SHALL GIVE NOTICE OF SUCH CLAIMED DEFECT TO SELLER WITHIN TEN (10) DAYS OF THE DATE OF DELIVERY OF SUCH GOODS TO BUYER. ANY DEFECTIVE GOODS MAY, AT SELLER'S OPTION, BE RETURNED BY BUYER, AT BUYER'S EXPENSE, TO SELLER'S FACTORY FOR INSPECTION. BUYER WILL PREPAY ALL FREIGHT CHARGES TO RETURN ANY GOODS TO SELLER, SELLER MAY, AT SELLER'S OPTION, DELIVER REPAIRED OR REPLACEMENT GOODS TO BUYER FREIGHT PREPAID TO THE ORIGINAL DESTINATION OF THE ORIGINAL GOODS. SELLER SHALL HAVE NO LIABILITY FOR ANY COSTS OR EXPENSES OF DISASSEMBLY, REMOVAL, REASSEMBLY OR REINSTALLATION OF ANY DEFECTIVE, REPAIRED OR REPLACEMENT GOODS OR OF FINISHING THE REINSTALLATION THEREOF. GOODS RETURNED TO SELLER FOR WHICH SELLER ELECTS TO PROVIDE REPAIRED OR REPLACEMENT GOODS UNDER THIS PARAGRAPH 15 SHALL BECOME THE PROPERTY OF SELLER.

16. CONFIDENTIAL INFORMATION: Selected software, hardware, drawings, diagrams, manuals, specifications and other materials furnished Seller related to use and service of articles furnished hereunder, including any information, may be identified as proprietary to Seller. Such software, hardware, drawings, diagrams, manuals, specifications and other materials have been developed at significant expense to Seller and are considered to be trade secrets of the Seller. Neither Buyer, nor any other unauthorized entity, may reproduce in any way without the prior express written consent of Seller, such software, hardware, drawings, diagrams, manuals, specifications and other materials, except as needed to operate and maintain the equipment supplied by Seller (except such information as may be established to be in the public domain or disclosed pursuant to legal judicial or government action) shall be received in confidence and purchaser shall exercise reasonable care to hold such information in confidence.

17. INCIDENTAL AND CONSEQUENTIAL DAMAGES: IN NO EVENT SHALL SELLER BE LIABLE FOR ANY PENALTIES, SPECIAL, CONTINGENT, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL LOSSES. DAMAGES OR EXPENSES DUE TO BREACH OF WARRANTY, BREACH OF CONTRACT OR OTHERWISE INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR DESTRUCTION OF OR LOSS TO PROPERTY, PERSONAL INJURY, LOSS OF USE OF THE GOODS OR ANY ASSOCIATED EQUIPMENT, LOSS OF PRODUCTION, REVENUE OR PROFITS, COST OF CAPITAL, COST OF SUBSTITUTE PRODUCTS, FACILITIES OR SERVICES, OR FOR ANY OTHER TYPES OF ECONOMIC LOSS, OR FOR CLAIMS OF CUSTOMERS OF BUYER OR USERS OF BUYER'S PRODUCTS FOR ANY SUCH DAMAGES.

18. NOTICES: All written notices, requests, demands, consents, certificates or other communications required or permitted to be given hereunder shall be sufficiently given when mailed by certified mail, return receipt requested, postage prepaid, addressed to Seller, Wireless Technology, Inc., at 2064 Eastman Avenue, Suite 113, Ventura, CA 93003-7787 and to Buyer at the most current address for Buyer in Seller's possession. Either party may by like notice at any time and from time to time designate a different address to which notices shall be sent.

19. SUBCONTRACTING: Seller may, without the necessity of obtaining Buyer's prior written consent, subcontract the production of all or any portion of the goods covered by this Offer to Sell.

20. WAIVER: No waiver shall be implied by Seller's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege granted to Seller hereby. No express waiver by Seller shall be construed as waiving any breach hereunder or the performance of any the terms or conditions hereof not specified in the express waiver, and then only for the time and to the extent stated therein. One or more waivers of any covenant, term or condition hereof shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition.

21. SEVERABILITY: If any covenant, term or condition hereof or the application thereof to any circumstance or person shall, to any extent, be held invalid or unenforceable by any court of competent jurisdiction, the remaining valid and enforceable covenants, terms and conditions hereof and the application of such invalid or unenforceable covenant, term or condition to circumstances or persons other than those as to which it has been held invalid or unenforceable shall not be affected thereby and each remaining valid and enforceable covenant, term and condition shall be valid and enforceable to the fullest extent permitted by law.

22. ENTIRE AGREEMENT: The terms and conditions contained in this Offer to Sell, together with all additional terms and conditions contained on all attachments hereto and all amendments hereof (collectively this "Offer to Sell"), shall constitute the complete and exclusive statement of the terms and conditions of the contract between Buyer and Seller for the purchase and sale of the goods to be purchased and sold hereunder and may hereafter be modified, amended or changed only by written instrument or change order executed by the duly authorized representatives of both Buyer and Seller. No statements, representations, writing, understandings or agreements by either party or any representative of either party, either in negotiations leading to this Offer to Sell or during the term hereof shall be binding or of any force or effect. No course of performance, course of dealing or usage of trade shall be relevant to explain or supplement this Offer to Sell.

23. STATUTE OF LIMITATIONS: ANY ACTION, WHETHER BASED UPON THEORIES OF BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE OR OTHERWISE, WITH REGARD TO THE GOODS OR SERVICES DELIVERED HEREUNDER MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.

24. GOVERNING LAW: This agreement shall be governed and construed according to the internal laws of the State of California. The terms and conditions contained herein shall be applicable to sales of goods only, to mixed sales of goods and services (regardless of which factor predominates), and to sales of services only and, in either of the latter two cases, the term 'goods' as used herein shall be construed as including all services rendered hereunder, unless the context clearly indicates otherwise.

25. FORUM AND JURISDICTION: Seller and Buyer hereby agree that any legal action deemed necessary by either party to this Offer to Sell shall be brought in either the federal or state courts of the State of California, in or for Ventura County, California, and hereby consent to the personal jurisdiction of such courts in any such action over the parties hereto. If, contrary to the provisions of this paragraph, Buyer commences any legal action involving this Offer to Sell or the goods provided hereunder in any forum other than either of those specified above, Seller shall be entitled to the dismissal of such action based upon the agreement of the parties contained in this paragraph.