



# Iridium Waterproof Communication Systems ApS

## Terms and Conditions for Sales

Revised September 1<sup>st</sup> 2020

### **EXCLUSIVITY OF TERMS**

Iridium Waterproof Communication Systems ApS (“Seller”) desires to provide its Customers with prompt and efficient service. However, to negotiate individually the terms and conditions of each sales contract would substantially impair Seller's ability to provide such service. Accordingly, Products furnished by Seller are sold only on the terms and conditions stated herein.

Notwithstanding any terms or conditions on Customer's order, Seller's performance of any contract is expressly made conditional on Customer's agreement to Seller's Terms and Conditions of Sale herein set forth unless otherwise specifically agreed to in writing by Seller. In the absence of such agreement, commencement of performance and/or delivery shall be for Customer's convenience only and shall not be deemed or construed to be acceptance of Customer's conditions, or any of them. If a contract is not earlier formed by mutual agreement, acceptance of any Product shall be deemed acceptance of the terms and conditions stated herein. All contracts, expressed or implied, entered into by the Seller, shall be construed under and governed by the laws of the location of the Seller's corporate headquarters.

### **SHIPMENT AND TRANSPORTATION**

All orders will be shipped Ex Works. The Customer may request a certain shipment manner; however, the Seller will have exclusive right to determine the final shipping manner if the Seller deems the Customer's instructions unsuitable. Seller reserves the right to charge a packaging and handling fee when using Customer's chosen shipping method.

### **ACCEPTANCE OF SHIPPED PRODUCT**

The Products supplied by the Seller shall be fully accepted by the Customer if the Customer does not inform the Seller within 8 days of the shipment of defect or nonconformity. Notwithstanding the foregoing, any attempts to use or installation of the Product by the Customer shall constitute acceptance.

### **TECHNICAL COMPATIBILITY**

The Products supplied by the Seller may be designed to interface to 3<sup>rd</sup>-party equipment like external radios. Only by using original interface units supplied by seller for compliance with specific radio models can full and optimal performance be guaranteed.

Products supplied by seller may be able to connect to and work with 3<sup>rd</sup>-party equipment like hand-held or mobile radios, mobile phones, wireless headsets etc. Seller will use its best effort to ensure compatibility with such devices, but no guarantee of specific functionality or compatibility is given.

### **RE-EXPORT RESTRICTIONS**

Products sold are to be used exclusively in the country they are shipped to by Seller OR as indicated on Sellers Order Confirmation OR within the territory specified in a separate written agreement. Re-export of products is only allowed if so expressly agreed to in writing by Seller no later than at the

time of ordering or, at Sellers written acceptance, no later than at the time of delivery.

In case of authorized re-export, it is Customer's sole responsibility to ensure that all relevant rules and regulations in force in the importing/final destination country are met. IWCS may, at any time, request written proof of such compliance.

### **QUOTATIONS**

All quotations are made subject to the terms and conditions as listed herein unless otherwise agreed to in writing by the Seller.

### **FORCE MAJEURE**

Delay in delivery or non-delivery in whole or in part by Seller shall not be a breach of this agreement if performance is made impracticable by the occurrence of any one or more of the following contingencies, the non-occurrence of which is a basic assumption on which this agreement is made: (a) Fires, floods or other casualties; (b) Wars, riots, civil commotion, embargoes, governmental regulations, or martial law; (c) Seller's inability to obtain necessary materials finished, or otherwise, from its usual sources of supply; (d) Shortage of cars or trucks or delays in transit; (e) Existing or future strikes or other labor troubles affecting production or shipment, whether involving employees of Seller or employees of others, and regardless of responsibility or fault on the part of the employer; and (f) Contingencies of manufacture or shipment, whether or not of a class or kind mentioned herein, not reasonably within Seller's control.

### **PAYMENT TERMS & INVOICING**

For Customers with approved credit lines, the Seller's payment terms are net 14 days from the date of invoice or as stated in separate written agreement. Otherwise, payment is due as specified on the individual Order Confirmation. Partial shipments will be billed by the Seller as made and payments therefore are subject to the above terms. Customer's outstanding balance must never exceed the agreed credit limit. The Customer shall have no right to offset or withhold payment. Payments due under irrevocable letters of credit shall be in accordance with the terms stated in the applicable letter of credit agreement, unless otherwise agreed to in writing by the Seller. The letters of credit must be in form and substance satisfactory to the Seller. Invoices are issued in either DKK or EUR, and only payment in the currency stated on invoice will be accepted. Seller issues and distributes invoices electronically. Requests for paper copies will incur an additional invoicing fee.

### **PAYMENT DEFAULT**

In addition to all other remedies Seller has under applicable law, Seller shall have the right to charge interest on overdue balances at the rate of one and one-half (1 1/2) percent per month. Customer shall also pay for all costs of collection including, without limitation, attorney fees and court costs.

### **TAXES**

All taxes and excises of any nature whatsoever now or hereafter levied by governmental authority, whether federal, state, or local, upon the sale, use, or transportation of any goods covered hereby, or otherwise arising out of this agreement, shall be paid and borne by Customer. EU customers are required to provide Seller with an EU VAT number for EU VAT exempt.

## **CONTRACT DEVELOPMENT AND CUSTOMER SPECIFIC PROJECTS**

Unless otherwise agreed to in writing, all intellectual and commercial rights to developed technology and products belong to Seller. Equipment and materials purchased by Seller for use in conjunction with such contract development or customer specific project remain the property of Seller, even if paid for by Customer in part or in full.

## **INTELLECTUAL PROPERTY RIGHTS**

Seller will defend or settle any claim against Customer that a Product delivered under these Terms and Conditions of Sale infringes a patent, utility model, industrial design, copyright, mask work or trademark in the country where Customer uses the Product, provided the Customer promptly notifies the Seller of such claim, cooperates with the Seller and grants the Seller sole authority to control the defense and any related settlement. The obligations of Seller pursuant to this paragraph shall not apply where any claim or suit arises out of or results from Customer's modification of the Product or Customer's use of the Product in violation of this agreement or in any manner contrary to its intended use. Whenever Seller is responsible under this paragraph, Seller may at its option either procure the right for Customer to continue using the Product, or may replace or modify the alleged infringing Product so that the Product becomes non-infringing, but if those alternatives are not reasonably achievable, Seller may grant Customer a credit for an equitable portion of the purchase price in exchange for the return of the Product.

## **WARRANTY**

As the manufacturer, Seller warrants that Products supplied to its Customers will be free from defects in material and workmanship for 12 months (1 year) from the date of invoice. Seller offers to extend the product warranty up to a maximum of 36 months (3 years) when a service agreement between Customer and Seller, or an authorized representative appointed by Seller, has been signed. Replacement, or at the Seller's option, credit for an equitable portion of the purchase price shall be the sole and exclusive remedy under warranty. THIS WARRANTY IS EXPRESSLY IN LEIU OF AND EXCLUDES ALL OTHER WARRANTIES, EXPRESS AND/OR IMPLIED, IN FACT OR BY LAW, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE, USE OR APPLICATION AND FOR ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE SELLER, UNLESS SUCH OTHER WARRANTIES, OBLIGATIONS OR LIABILITIES ARE EXPRESSLY AGREED TO IN WRITING BY THE SELLER. THE SELLER SHALL NOT BE LIABLE, AND THE CUSTOMER AGREES NOT TO ASSERT, AND HEREBY WAIVES ANY CLAIM WHATSOEVER AGAINST THE SELLER, FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL, AND/OR CONSEQUENTIAL DAMAGES THAT MAY BE INCURRED BY THE CUSTOMER, INCLUDING ANY CLAIM FOR LOSS OF PROFITS. FOR PURPOSES OF ALL EXCLUSIVE REMEDIES AND LIMITATIONS OF LIABILITY SET FORTH IN THIS TERMS AND CONDITIONS OF SALE, "SELLER" SHALL BE DEFINED AS IRIDIUM WATERPROOF COMMUNICATION SYSTEMS APS, AS WELL AS ITS AFFILIATES, AND ITS AND THEIR EMPLOYEES, DIRECTORS, OFFICERS, PARTNERS, MEMBERS, AGENTS, REPRESENTATIVES AND SUBCONTRACTORS.

The following criteria must be met by the Seller's customer prior to Seller's consideration of any warranty claim; (1) The specific Product must still be within the warranty period, which is 12 months (1 year) from the date of shipment, (2) Customer must obtain a Return of Material Authorization number ("RMA number") from the Seller and subsequently fill out an online RMA form ([www.iwcs.eu/rma](http://www.iwcs.eu/rma)). The form includes the specific part description, original invoice number and date, reason for the return and other relevant data.

## **DISPUTES**

All disputes, under any contract with the Seller, not otherwise resolved between the Seller and the Customer shall be resolved in a court of competent jurisdiction for the location of the Seller's corporate headquarters (Denmark) and/or in a court specified by the Seller in order to secure jurisdiction over third parties. No action, regardless of form, arising out of or in any way connected with the Products or services furnished by the Seller may be brought by the Customer more than one year after the cause of action has occurred. If any part, provision or clause of these Terms and Conditions of Sale, or the application thereof to any person or circumstance, is held invalid, void, or unenforceable, such holding shall not affect and shall leave valid all other parts, provisions, clauses or applications of the terms and conditions remaining, and to this end the terms and conditions shall be treated as severable.

## **CANCELLATION, SUSPENSION, OR MODIFICATION BY CUSTOMER**

If Customer wishes to cancel, suspend or modify an order scheduled to ship within 15 days of Seller's receipt of Customer's written notice of such desire to cancel, suspend, or modify an order, Customer may do so only with Seller's written consent which will include terms that will indemnify Seller against loss arising from such cancellation, suspension, or modification, unless otherwise agreed to by the Seller. If Customer wishes to cancel, suspend or modify an order and Seller receives such notice from the Customer more than 15 days in advance of the scheduled shipment date, Customer may do so only with Seller's written consent and upon terms agreed to by the Seller. If Customer wishes to reschedule a shipment scheduled to ship within 15 days of receipt by the Seller of such desire to reschedule an order, Customer may do so only with Seller's written consent and upon terms agreed to by the Seller. If Customer wishes to return unused, unopened products already delivered in accordance with previously accepted order confirmation, Customer may do so only with Seller's written consent and upon terms agreed to by the Seller. A re-stocking fee of not less than 15% will be deducted from the credit.

## **EU'S WASTE ELECTRONIC AND ELECTRONIC EQUIPMENT (WEEE) REGULATION AND RELATED ELECTRONIC RECYCLING RULES**

Seller assumes responsibility only for the recycling rules specified under the EU WEEE regulations for domestic sales in Denmark. Seller assumes no responsibility for meeting recycling rules specified under any other regional electronic recycling laws in effect inside or outside of the EU. When Seller's product is purchased by a Customer outside Denmark, this Customer must accept the responsibility for following the recycling rules and regulation specified under WEEE or any other applicable electronic recycling laws in effect in his country of operation. If the product is re-exported (in agreement with Seller), Customer must ensure that recycling rules and regulations, specified under WEEE or any other applicable electronic recycling laws in effect in the importing/final destination country, are followed and met.

In compliance with the EU regulation, Seller is a member of elretur ([www.elretur.dk](http://www.elretur.dk)), who handles the recycling responsibility for products delivered to domestic (Danish) customers.

The most recent version of the **Terms and Conditions of Sales** will always be available on the IWCS website: [www.iwcs.eu](http://www.iwcs.eu)