

LNX CORPORATION

TERMS AND CONDITIONS OF SALE

1. PRICES

- A. All prices are subject to adjustment on account of changes in specifications, quantities, shipment arrangements or other terms and conditions which are not a part of the original price quotation.
- B. Prices are exclusive of all federal, state, municipal or other government excise, sales, use, occupational or like taxes, tariffs, customs, duties and importing fees, and are consequently subject to increase by the amount of any such tax, tariff, duty or fee which LNX pays or is required to pay or collect upon sale or delivery of the products. Any certificate of exemption or similar document required to exempt the sale of products from sales or use tax liability shall be obtained by the BUYER at its own expense.

2. TERMS OF PAYMENT

Terms are cash upon delivery, except where satisfactory open account credit is established, in which case terms of payment are net thirty (30) days from the date of invoice. LNX reserves the right at any time to revoke any credit extended to the BUYER for any risk deemed good and sufficient by LNX. LNX will issue invoices on delivery in the case of all products; and if deliveries are authorized in installments, each shipment shall be invoiced and paid when due without regard to other scheduled deliveries. Overdue payments shall be subject to finance charges computed at a periodic rate of 1.5% per month (to the extent permitted by law). Amounts owed by the BUYER with respect to which there is no dispute shall be paid without set-off for any amounts which the BUYER may claim are owed by LNX and regardless of any other controversies which may exist.

3. DELIVERY

- A. ALL products will be shipped FOB factory of origin for U.S. shipments and FCA factory of origin (INCOTERMS 2000) for international shipments, or as otherwise designated by LNX in a notice to the BUYER.
- B. Ownership of, and risk of loss with respect to, the products shall pass to the BUYER upon delivery thereof by LNX to the BUYER or to a carrier for shipment to the BUYER, whichever is earlier. The BUYER hereby grants LNX a security interest in the products as security for the performance by the BUYER of all its obligations hereunder.
- C. LNX reserves the right to make shipments when product is available and shall invoice shipments as made.
- D. All products will be scheduled for shipment in accordance with the minimum order policy of LNX. LNX will confirm the shipment schedule in writing upon request. Under no circumstances shall LNX be liable for any delay either in shipment or in delivery for any reason beyond its reasonable control.

4. SOURCE INSPECTION; ACCESS TO FACILITIES

- A. Source inspection by the BUYER or by its customer must be agreed to in writing, and is subject to reasonable charges and safety and security conditions.
- B. Any employee or representative of a party permitted to have access to its facilities of the other party shall remain an employee or representative of the entering party, and shall abide by all applicable rules, regulations, policies and procedures as may be set forth by the other party while present in its facilities. The entering party hereby agrees to indemnify the other party to the extent of its insurance coverage therefor for any loss, or damage arising from or related to the presence of the entering party's employees or representatives at such facilities.

5. SHIPMENT

Unless specific instructions to the contrary are supplied by the BUYER, LNX will select the carrier and ship the products to the BUYER's address indicated on the BUYER's Purchase Order. LNX will not assume any liability in connection with the shipment nor constitute any carrier as its agent. The BUYER shall be responsible for making all claims with carriers, insurers, warehousemen and others for non-delivery, loss, damage or delay. All claims for damages to the product or shortages must be made within thirty (30) days of shipment.

6. OFFER/ACCEPTANCE

LNX offers to sell and deliver the products and services specified in this offer in accordance with the terms and conditions hereof. This offer expressly limits acceptance to the terms hereof and any additional or different terms proposed by the BUYER are hereby objected to and rejected unless expressly assented to in writing by LNX.

7. CANCELLATION, RESCHEDULING, RETURNS, AND MODIFICATIONS

Any request for order cancellation, rescheduling, return, or modification must be made in writing and such action must be approved in writing by an authorized agent of LNX at its principal office in Salem, New Hampshire. LNX, at its option, may accept or reject any request by the BUYER to return product for credit. Products may not be returned for any reason without the prior authorization of LNX and the issuance of a Return Material Authorization (RMA).

8. WARRANTY

LNX warrants that each product will be free of defects in materials and workmanship, and conform to specifications set forth in published data sheets, for a period of one (1) year from the date the product is shipped by LNX. The sole liability and responsibility of LNX under this warranty is to repair, replace, or grant the BUYER a credit for any product which is returned to it by the BUYER which LNX determines does not conform to this warranty. Product returned to LNX for warranty service will be shipped to LNX at the BUYER's expense and will be returned to the BUYER the expense of LNX. In no event shall LNX be responsible for any defect which is caused by negligence, misuse or mistreatment of a product or for any unit which has been altered or modified in any way. The warranty of replacement products shall terminate with the warranty of the original product.

WARRANTY DISCLAIMER

THIS EXPRESS WARRANTY BY LNX TO THE BUYER CONSTITUTES THE SOLE LIABILITY OF LNX AND THE SOLE REMEDY OF THE BUYER WITH RESPECT TO THE PRODUCTS AND IS IN LIEU OF ALL OTHER WARRANTIES, LIABILITIES AND REMEDIES. EXCEPT AS THUS PROVIDED, LNX DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT.

9. INTELLECTUAL PROPERTY RIGHTS INDEMNITY

LNX shall indemnify and defend the BUYER against any claim that a product, as delivered, infringes a United States patent, United States copyright, United States trademark or other United States intellectual property right, provided LNX is promptly advised of such claim or action and has sole control of its defense and of its settlement or compromise. If at any time use of the product is enjoined or is discontinued because of a settlement, LNX shall have the right, but not the obligation, at its sole option and expense, to either procure for the BUYER the

right to continue using the product, replace or modify the product so that it becomes non-infringing or grant the BUYER a credit for the product, and accept its return.

LNX shall not have any liability to the BUYER to the extent the infringement or other violation of a third party right is based in any way upon

- i. the use of a product in combination with other components, equipment or software not furnished by LNX, PROVIDED, however, that LNX shall have no liability related to third party software;
- ii. the use of a product in practicing any process;
- iii. any product which has been modified or altered;
- iv. The manner in which the product is used even if LNX has been advised of such use;
- v. the compliance by LNX with the BUYER's designs, specifications or instructions; or
- vi. the compliance of a product with an industry standard or communication protocol.

In no event shall the total liability of LNX to the BUYER under this Section 10 exceed the aggregate sum paid to LNX by the BUYER for the products which are alleged to be infringing.

10. INDEMNIFICATION

UNLESS OTHERWISE EXPRESSLY PROVIDED IN A WRITING SIGNED BY THE PARTIES, LNX DOES NOT INDEMNIFY, NOR DOES IT HOLD THE BUYER HARMLESS, AGAINST ANY LIABILITIES, LOSSES, DAMAGES AND EXPENSES RELATING TO ANY CLAIMS WHATSOEVER, INCLUDING WITHOUT LIMITATION, CLAIMS FOR PERSONAL INJURIES, DEATH OR PROPERTY DAMAGE RELATING TO THE PRODUCTS SOLD HEREUNDER.

LNX SHALL NOT BE UNDER ANY OBLIGATION TO PROVIDE INDEMNIFICATION WITH RESPECT TO ANY MATTER FOR WHICH IT HAS NOT RECEIVED PROMPT AND TIMELY WRITTEN NOTICE, OR FOR WHICH IT IS NOT AFFORDED THE OPPORTUNITY TO CONTROL THE DEFENSE THEREOF, INCLUDING THE SELECTION AND RETENTION OF COUNSEL AND ALL SETTLEMENT NEGOTIATIONS. NOR SHALL LNX BE UNDER ANY OBLIGATION TO PROVIDE INDEMNIFICATION WITH RESPECT TO ANY MATTER WHICH IS SETTLED OR COMPROMISED WITHOUT ITS EXPRESS WRITTEN CONSENT OR WITH RESPECT TO WHICH THE INDEMNITEE SHALL HAVE FAILED TO COOPERATE WITH THE INDEMNITOR.

11. FORCE MAJEURE

LNX shall not be liable for any loss or damage resulting from any delay in delivery when such delay is due to any cause or event beyond its reasonable control, including, without limitation, acts of nature, unavailability of supplies or sources of energy, riots, wars, fires, strikes, labor difficulties, delays in transportation, delays in delivery or defaults by vendors, or acts or omissions of the BUYER. In the event of delay due to any such cause, time for delivery shall be extended for a period of time equal to the duration of such delay and the BUYER shall not be entitled to refuse delivery or otherwise be relieved of any obligations as a result of the delay. If, as a result of any such cause, any scheduled delivery is delayed for a period in excess of one-hundred-twenty (120) days, either party shall have the right by written notice to the other to cancel the order for the products subject to the delayed delivery without further liability of any kind.

12. ALLOCATION

LNX may allocate its resources as is necessary to meet its obligations to its customers on an equitable basis during periods of short supply.

13. EXPORT

- A. The BUYER certifies that it will comply fully with all applicable laws and regulations relating to exports or reexports (including, if the good are of U. S. origin, all applicable rules and regulations of the United States Departments of Commerce and State, as applicable) with respect to
- B. The export or reexport of the products furnished hereunder; or
- C. The export of any foreign made commodities which incorporate the products furnished hereunder.
- D. The obligation of LNX to deliver any product hereunder shall be subject to all applicable export laws and regulations, and, if a license or other approval is required in connection therewith, then the obligation of LNX to deliver any product hereunder shall be subject to its having obtained such license or approval.

14. PRODUCT TECHNOLOGY

The BUYER acknowledges that LNX is in the business of developing sophisticated products for the defense and commercial electronics markets, and that LNX is the exclusive owner of and reserves the right to use the technology owned and/or developed by it relating to the products, including, but not limited to, all designs, architecture methodology, simulation tools, process technology, and CAD tools. The BUYER further acknowledges that LNX may develop products for sale to third parties at any time during the term of this Order.

15. LIMITATION OF LIABILITY

IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES DUE TO ANY CAUSE WHATSOEVER. IN NO EVENT SHALL THE ACCRUED TOTAL LIABILITY OF LNX UNDER THIS ORDER EXCEED THE AGGREGATE SUM PAID TO LNX BY THE BUYER HEREUNDER.

16. GOVERNING LAW

This contract shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts without resort to its conflict of laws provisions

17. ENTIRE AGREEMENT AND AMENDMENTS

THESE TERMS AND CONDITIONS CONSTITUTE THE ENTIRE CONTRACT BETWEEN THE PARTIES AND SUPERSEDE ALL PREVIOUS COMMUNICATIONS, WHETHER ORAL OR WRITTEN. ANY CHANGE TO THIS CONTRACT MAY BE MADE ONLY UPON THE MUTUAL AGREEMENT OF THE PARTIES IN WRITING.