

TARANA WIRELESS, INC.
STANDARD TERMS AND CONDITIONS OF SALE

1. SCOPE

The terms and conditions of sale set forth in this document (the “*Terms and Conditions*”) apply to all quotations issued and purchase orders accepted by Tarana Wireless, Inc. (“*Tarana*”) for the sale of its products (“*Products*”), except in the case that Tarana and buyer (“*Buyer*”) have executed a written agreement that supersedes these Terms and Conditions.

2. ORDERING

If Buyer wishes to purchase Products from Tarana, Buyer will submit a written purchase order signed by an authorized representative of Buyer. No purchase order will be binding on Tarana unless and until Tarana accepts Buyer’s order and sends Buyer a written order confirmation, which will confirm the quantity of Products purchased and the selling price, and will specify a shipment date. Tarana’s acceptance of Buyer’s order is expressly conditioned on Buyer’s unconditional assent to these Terms and Conditions in lieu of any terms and conditions in Buyer’s order or in any other Buyer communication. Tarana hereby rejects any terms or conditions in Buyer’s order or in any other Buyer communication that conflict with or that purport to add to or modify these Terms and Conditions.

3. ORDER CANCELLATION AND RESCHEDULING

Once Tarana accepts an order from Buyer, Buyer may not cancel the order without Tarana’s written consent, which consent may be conditioned on payment of a cancellation fee established by Tarana. Once Tarana accepts an order from Buyer, Buyer may not reschedule delivery of the order without Tarana’s written consent.

4. SHIPMENT AND DELIVERY

- A. Tarana will ship Products EXW (Incoterms 2010) Tarana’s distribution center in the United States. Unless Buyer provides Tarana with specific instructions, Tarana will select the carrier. Buyer will be responsible for all shipping charges, non-standard packing charges, insurance and other shipping-related costs and expenses. Title to the Products (except to the extent that the Products consist of software) and risk of loss or damage to Products will pass to Buyer upon Tarana’s delivery of the Products to the carrier.
- B. Buyer acknowledges that all scheduled shipment dates are estimates only. Tarana will make reasonable efforts to meet the scheduled shipment dates, but in no event will Tarana be liable for any loss, damage, or penalty resulting from any delay in shipment or delivery. Tarana will have the right to ship the Products in installments and separately invoice Buyer for such installments. Tarana will have the right to allocate its available inventory of the Products among its buyers in such manner as Tarana deems appropriate. Tarana will have the right to delay or suspend shipment of the Products if Buyer fails to make any payment as provided in these Terms and Conditions or if Buyer fails to meet Tarana’s credit standards.

5. INSPECTION AND ACCEPTANCE

Buyer will have five (5) business days to inspect the Products to confirm that the Products delivered consist of the correct product and the correct quantity and Buyer must accept or reject them in writing within that period. If Buyer rejects the Products, Buyer must provide Tarana with the specific reasons for the rejection. If Buyer fails to notify Tarana in writing of its acceptance or rejection within the above period, the Products will be deemed accepted. Buyer may return Products to Tarana only upon Tarana’s prior written authorization.

6. PRICE

The prices for the Products will be as specified in Tarana’s quote or the accepted purchase order. Prices are stated in U.S. dollars and are exclusive of all applicable sales, use, excise, withholding, value-added and other taxes, duties and charges (collectively, “*Taxes*”). Unless Buyer timely provides Tarana with a tax-exemption certificate acceptable in the appropriate taxing jurisdiction, Tarana will include all Taxes as separate items on Tarana’s invoice, which will be payable by Buyer pursuant to Section 7 of these Terms and Conditions. Buyer will indemnify and hold Tarana harmless from and against any liabilities, interest, penalties or fees assessed against Tarana arising from any failure by Buyer to pay any Taxes.

7. PAYMENT TERMS

Tarana may invoice Buyer for the Products upon delivery of the Products to the carrier. All invoices issued by Tarana will be due and payable thirty (30) days from the date of the invoice. Tarana reserves the right, based on Tarana’s assessment of Buyer’s financial condition or payment record, to require payment in advance or to require Buyer to obtain an irrevocable letter of credit. All payments will be made in U.S. dollars, free of any currency controls or other restrictions. If Buyer is required to make any withholdings from payments to Tarana, the prices of the Products shall be increased so that Tarana receives the entire quoted price after such withholding. All amounts not paid when due will be subject to a finance charge at the lower of 1.5% per month or the highest rate permissible by applicable law. Buyer may not setoff against Tarana’s invoices any amounts that Buyer claims are due to it. Tarana hereby reserves and Buyer hereby grants to Tarana a purchase money security interest in the Products sold and the proceeds thereof until Buyer has paid the total amount invoiced by Tarana for the Products. Buyer authorizes Tarana to execute and record any financing statements or other documents as Tarana deems necessary to protect Tarana’s security interest.

8. LIMITED WARRANTY AND DISCLAIMERS

- A. Tarana warrants to Buyer that each Product unit will be free from defects in material and workmanship. The duration of the warranty, exclusions from warranty coverage, and other terms and conditions applicable to Tarana’s warranty, can be found under

the heading “Hardware Warranty Program” at <https://support.taranawireless.com/s/article/support-and-warranty-program>.

- B. THE LIMITED WARRANTY REFERRED TO ABOVE IS IN LIEU OF, AND TARANA SPECIFICALLY DISCLAIMS, ANY AND ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM TARANA OR ELSEWHERE, WILL CREATE ANY WARRANTY NOT EXPRESSLY INCLUDED IN THE WARRANTY REFERRED TO ABOVE.

9. INDEMNITY

- A. Tarana will defend any suit brought against Buyer by a third party based on a claim that a Product provided by Tarana to Buyer infringes a United States patent or any copyright or misappropriates any trade secret, and Tarana will pay any damages awarded in final judgment against Buyer or agreed to in settlement by Tarana that are attributable to any such claim, provided that Buyer: (i) notifies Tarana promptly in writing of the claim; (ii) gives Tarana sole control of the defense and any related settlement of the claim; and (iii) gives Tarana, at Tarana’s expense, all reasonable information, assistance and authority in connection with the defense and settlement of the claim.
- B. If a Product becomes, or in Tarana’s opinion is likely to become, the subject of a claim against Buyer, as specified in subsection (A) above, then Tarana may, at its sole option and expense: (i) procure for Buyer the right to continue using the Product; (ii) replace or modify the Product to avoid the claim; or (iii) if options (i) or (ii) cannot be accomplished on terms Tarana deems commercially reasonable, then Tarana may accept return of the Product from Buyer and grant Buyer credit for the price of the Product as depreciated on a straight-line five (5) year basis, commencing on the date of receipt by Buyer of such Product.
- C. Tarana will have no obligations under this Section 9 for any claim to the extent it results from: (i) the combination, operation or use of a Product with or in equipment, products, or processes not provided by Tarana; (ii) modifications to a Product not made by or on behalf of Tarana; (iii) Buyer’s failure to use an updated or modified Product provided by Tarana; (iv) Tarana’s compliance with Buyer’s designs, plans or specifications; or (v) Buyer’s use of a Product other than in accordance with Tarana’s published specifications or user manual. The foregoing clauses (i) to (v) are referred to collectively as “*Indemnity Exclusions*”.
- D. THE FOREGOING PROVISIONS OF THIS SECTION 9 SET FORTH TARANA’S SOLE AND EXCLUSIVE LIABILITY AND OBLIGATIONS AND BUYER’S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIMS OF INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OR PROPRIETARY RIGHTS OF ANY KIND.
- E. Buyer will defend or settle, indemnify and hold Tarana harmless from any liability, damages and expenses (including court costs and reasonable attorneys’ fees) arising out of or resulting from any third-party claim based on or otherwise attributable to an Indemnity Exclusion.

10. LIMITATIONS ON LIABILITY

IN NO EVENT WILL TARANA BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, DATA, OR GOODWILL) ARISING OUT OF OR RELATING TO TARANA PRODUCTS, EVEN IF TARANA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS WILL APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THESE TERMS AND CONDITIONS IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. IN NO EVENT WILL TARANA’S LIABILITY TO BUYER ARISING OUT OF OR RELATING TO THESE TERMS AND CONDITIONS OR ANY PRODUCT EXCEED AN AMOUNT EQUAL TO THE AMOUNT PAID BY BUYER FOR THE PRODUCT THAT GAVE RISE TO THE CLAIM.

11. SMS SERVICES

- A. Subject to payment of the applicable fee established by Tarana, Tarana provides purchasers of Tarana Base Nodes (“*BNs*”) and Remote Nodes (“*RNs*”) with a software, management and support package (“*SMS Services*”) consisting of (a) a license to use the software embedded in the products, support and maintenance services relating to the products and the embedded software, and (b) access to Tarana’s online, cloud-based tool, known as Tarana Cloud Suite (“*TCS*”), which enables end-users to configure, manage and monitor the use of the products. Buyer acknowledges that the Products will not operate properly without the SMS Services. Tarana also offers an increase in RN downlink speed beyond the standard speed provided for through the SMS Services (a “*Speed Unlock*”), subject to payment of an additional fee.
- B. The SMS Services and Speed Unlocks are made available as further described in, and subject to the terms and conditions of, Tarana’s SMS Services and Speed Unlock Program Terms in effect from time to time (the “*SMS Terms*”), the current version of which can be found at <https://www.taranawireless.com/legal/sms-unlock-terms>. Use of the TCS is governed by and subject to the TCS Terms of Use in effect from time to time, as referenced in the SMS Terms.

12. SOFTWARE LICENSE

Tarana’s Products may include software in the form of firmware embedded or installed in the products (“*Embedded Software*”). Notwithstanding anything to the contrary in these Terms and Conditions, such Embedded Software is licensed to Buyer, not sold. Buyer acknowledges and agrees that (a) Tarana and its licensors own all worldwide right, title and interest in and to the Embedded Software, including all worldwide intellectual property rights therein, and (b) Buyer’s rights to use the Embedded Software are solely as provided in Tarana’s Embedded Software License Agreement incorporated in the SMS Terms.

14. HAZARDOUS USES

Buyer acknowledges that the Products are not designed, intended, or certified for use in communication systems for, or relating to (a) weapons or weapons systems, (b) nuclear facilities, (c) air traffic control or other mass transportation systems, (d) life support systems or other medical devices, (e) applications where electrical sparks could trigger explosions or fires, or (f) any other systems, devices or applications in which the failure of the Product to operate as intended may lead to death, bodily injury, or catastrophic property damage (each an “**Unauthorized Use**”). Many of such Unauthorized Uses would require specific industry certification which has not been sought or obtained for the Products. Buyer agrees to require that any purchasers of the Products from Buyer agree in writing not to use the Products for Unauthorized Uses and not to further resell the Products unless their purchasers agree not to use the Products for Unauthorized Uses. Buyer agrees to defend, indemnify, and hold Tarana harmless from any damages, liabilities, losses, costs, and expenses (including reasonable attorney fees) that may be incurred by Tarana in connection with suits or claims by third parties for damages (including but not limited to damages for personal injury or death) alleged to have been caused by the Products if used for Unauthorized Uses.

15. GENERAL PROVISIONS

- A. These Terms and Conditions will be governed and construed in accordance with the laws of the State of California, excluding its conflict of laws principles. The parties disclaim application of the United Nations Convention on Contracts for the International Sale of Goods. Any legal action or proceeding arising under these Terms and Conditions will be brought exclusively in the federal or state courts located in Santa Clara County, California and the parties hereby irrevocably consent to the personal jurisdiction and venue therein. Notwithstanding the foregoing, Tarana may commence proceedings in any other court of its choice of appropriate jurisdiction to obtain an injunction, specific performance or other equitable relief for protection of intellectual property rights.
- B. Buyer may not assign or transfer these Terms and Conditions, or any order accepted by Tarana hereunder, in whole or in part, by operation of law or otherwise, without Tarana’s express prior written consent. Any attempt to do so, without Tarana’s consent, will be null and of no effect.
- C. Tarana will not be responsible for any failure or delay in its performance under these Terms and Conditions due to causes beyond its reasonable control, including, but not limited to, labor disputes, strikes, lockouts, shortages of or inability to obtain energy, raw materials or supplies, war, terrorism, riot, or acts of God.
- D. The failure by Tarana to enforce any provision of these Terms and Conditions will not constitute a waiver of future enforcement of that or any other provision. If for any reason a court of competent jurisdiction finds any provision of these Terms and Conditions invalid or unenforceable, that provision will be enforced to the maximum extent permissible and the other provisions of these Terms and Conditions will remain in full force and effect.
- E. These Terms and Conditions constitute the complete and exclusive agreement between Tarana and Buyer regarding its subject matter and supersedes all prior or contemporaneous quotations, agreements, communications or understandings, whether written or oral, relating to its subject matter. Any waiver, modification or amendment of any provision of these Terms and Conditions will be effective only if in writing and signed by duly authorized representatives of each party.
- F. Buyer will not export or re-export, directly or indirectly, the Products, or any technical information related thereto, or any direct products thereof, to any destination or person prohibited or restricted by the export control laws and regulations of the United States, without the prior authorization from the appropriate governmental authorities.
- G. All software contained in the Products and any related documentation are “commercial items” as that term is defined in FAR 2.101, consisting of “commercial computer software” and “commercial computer software documentation,” respectively, as such terms are used in FAR 12.212 and DFARS 227.7202. To the extent that the Products are being acquired by or on behalf of the U.S. Government then, as provided in FAR 12.212 and DFARS 227.7202-1 through 227.7202-4, as applicable, the U.S. Government’s rights in the software and any related documentation will be only those specified in these Terms and Conditions.
- H. All notices required or permitted to be given under these Terms and Conditions will be in writing and will be deemed given:
 - (i) upon actual delivery, if made by personal service; (ii) three (3) days after mailing, if made by U.S. certified or registered mail; and (iii) one (1) business day after delivery to the courier or overnight delivery service, if made by courier or overnight delivery service. All notices will be addressed as set forth on the purchase order or Tarana’s order confirmation, as the case may be, or to such other address as the party who is to receive the notice so designates by written notice to the other.