



# Equipment Order Form

Customer Information	
<b>Bill To:</b> Name: _____ Address: _____ _____ CitySTZip: _____ Phone: _____ Fax: _____ email address: _____	<b>Ship To:</b> Name: _____ Address: _____ _____ CitySTZip: _____ Phone: _____ Special Instructions: _____ _____

Payment Information	
<b>Payment Type:</b>	
Visa <input type="checkbox"/> Cash <input type="checkbox"/> Mastercard <input type="checkbox"/> Check/MO <input type="checkbox"/> Discover <input type="checkbox"/> Wire Transfer <input type="checkbox"/>	Credit Card Number: _____ Exp. Date (MM/YY): _____ Name on Card: _____ 3 or 4 digit code: _____
<b>Billing address on card (if different):</b>	
Street: _____	
CitySTZip: _____	
Signature: _____      Date: _____	
Cardholder acknowledges receipt of goods and/or services for purposes referenced above and agrees to perform the obligation set forth in the Cardholder's agreement with the Issuer.	

Please use the spaces below to complete your order.				
Quantity	Item Number	Item Description	Price Per Unit	Total
Wire Transfer Information:			Subtotal	
Bank of America			Shipping & Handling	
Explorer Satellite Communications, Inc.			Tax	
Routing number 026009593/SWIFT Code: BOFAUS3N			ORDER TOTAL	
acct # 003673186028				

Terms and Conditions: All sales are final unless return is authorized by Explorer Satellite Communications. Returned items are subject to a 15% restocking fee. Manufacturer's warranty returns excluded.

This Agreement is by and between Explorer Satellite Communications, Inc. ("ESCI" or "Seller") and the party specified on the reverse side hereof ("Buyer"). Buyer and Seller shall be referred to as the "party" individually, and together as the "parties". This Agreement, Purchase Order, or any offer to purchase satellite phone equipment or accessories ("Products") accepted by ESCI are subject to Buyers' agreement to the following terms and conditions of sale, which are the only terms and conditions applying to the sale of Products by ESCI hereunder. Such agreement by Buyer shall be deemed given if not objected to within ten (10) days of Buyer's execution of the reverse side of this Agreement or upon Buyers' payment for Products, whichever occurs first.

## **Article 1 - Warranties and Limitation of Liability**

### **1.1 Warranty**

1.1 (a) Except as provided below, ESCI warrants that the Products furnished hereunder will be free from defects in material and workmanship for a period of one (1) year for new satellite phone terminals and sixty (60) days for accessories, provided such terminals and accessories are installed, operated and maintained in accordance with instructions furnished by the manufacturer of the Products. The warranty period shall commence on the date the Products are shipped to Buyer, FOB origin. Notice of any defects discovered within the period of warranty must be given to ESCI in writing within (30) days from the date of discovery of the defect.

1.1 (b) Upon receipt of notice of a warranty of defect pursuant to 1.1 (a) above, ESCI shall repair or replace, at its sole option, defective Products. Products, parts, materials or components, which are replaced, shall become ESCI' property.

1.1 (c) This warranty shall not apply to any Product that: has been subjected to misuse, neglect, accident or abuse; (ii) has been repaired or altered by someone other than ESCI; or (iii) has been used in a manner not in accordance with manufacturer's instructions.

1.1 (d) THIS EXPRESS WARRANTY IS EXCLUSIVE AND EXCLUDES, AND IS IN LIEU OF, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, DESIGN, STATUTORY OR COMMON-LAW WARRANTY, OR ANY OTHER WARRANTY IN CONNECTION WITH THIS AGREEMENT, WHETHER EXPRESS OR IMPLIED.

1.1 (e) IN THE CASE OF EQUIPMENT FOR USE WITH THE IRIDIUM SYSTEM, ESCI DOES NOT WARRANT THE OPERATION OF THE IRIDIUM SYSTEM OR ANY LIMITATIONS OF THE RANGE, COVERAGE, AVAILABILITY OR OPERATION OF THAT SYSTEM OR ANY OTHER COMMUNICATION SYSTEM.

### **1.2 Limitation of Liability / Indemnification**

Except as provided herein, ESCI shall not be liable, and expressly disclaims any liability to Buyer, for any damages, claims, liabilities, expenses, or losses regardless of degree of fault of failure, including but not limited to damage to property and claims for personal injury or death, sustained by Buyer arising out of relating to or in any way associated with the Products sold hereunder by ESCI or its dealers or agents. ESCI shall not be liable for any loss or damage arising out of or in connection with an act or omission of the Buyer in Connection with the Products sold by ESCI; and the Buyer agrees to indemnify and save ESCI harmless from all such liability; and shall protect and defend ESCI from any suite or claims alleging such liability, and shall pay any expenses and satisfy any judgments which may be incurred by or rendered against ESCI hereunder. ESCI' liability for any valid claim submitted under this Agreement shall not exceed the total value of the Product which gives rise to the claim, nor shall any claim of the Buyer be valid unless the Buyer adheres to all of the provisions of this Agreement.

IN NO EVENT WILL ESCI BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES ARISING OUT OF OR UNDER THIS AGREEMENT WHETHER UNDER CONTRACT, WARRANTY OR TORT, INCLUDING LOSS OF REVENUE OR LOST PROFITS, REGARDLESS OF THE FORESEEABILITY OF SUCH DAMAGES, LOSSES OR EXPENSES. THE PROVISIONS OF THIS ARTICLE 1.2 ARE EXPRESSLY ACCEPTED BY THE BUYER IN LIEU OF ANY OR ALL OTHER AGREEMENTS, STATEMENTS OR REPRESENTATIONS, EXPRESSED OR IMPLIED, IN FACT OR IN LAW, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NO AGREEMENT OR UNDERSTANDING VARYING OR EXTENDING THE SAME WILL BE BINDING UPON ESCI UNLESS IN WRITING SIGNED BY A DULY AUTHORIZED REPRESENTATIVE OF ESCI.

### **Article 2 – Acceptance of Products / Title / Risk of Loss**

If Buyer fails to reject any Products in writing, within ten (10) days after receipt thereof, Buyer shall be deemed to have inspected and accepted such Products, and agreed that shipment is complete. Free and clear title to each Product purchased hereunder shall pass from ESCI to Buyer, without any liens, encumbrances, pledges or other interests whatsoever, when each such Product has been paid for in full by Buyer and ESCI is in receipt of such payment and the Product is shipped FOB origin. ESCI shall retain a security interest in each Product until all of the aforementioned conditions have been satisfied.

### **Article 3 - Use / Delivery / Export Control**

#### **3.1 Use**

The Products sold hereunder are intended for personal satellite communications use to the extent authorized by any governmental authority, including without limitation the Federal Communication Commission of the United States, having jurisdiction over the area in which they will be used.

#### **3.2 Delivery**

ESCI shall use reasonable efforts to deliver the Products by their delivery date; however, in no event will ESCI be liable for any delay in delivery of any Products at any time, nor shall ESCI be held responsible for any loss or other consequences as a result of delay in delivery of any Products.

### **Article 4 - Return of Products**

Buyer agrees that prior to the return of any defective Products, whether under warranty or not, Buyer shall not return said Products prior to obtaining a Return Authorization ("RA") number from ESCI. When returned to ESCI, said Products shall be appropriately marked or otherwise identified with the RA number and shall be accompanied by a brief description of the cause of the return. The Buyer shall be responsible for all transportation charges to ESCI designated return facility, and for any duties and related charges resulting there from. Except for damage caused solely by ESCI' negligence, Buyer shall bear the risk of loss or damage to Products returned FOB to ESCI, including but not limited to transportation to ESCI' designated facilities notwithstanding any defects in Products. If ESCI finds that a returned Product is not defective, the Buyer will be notified and the Product returned to the Buyer at the Buyer's expense. The Buyer shall reimburse the ESCI for all costs relating to the shipment of returned Products which are not defective. In addition, in ESCI' sole discretion, a charge to Buyer for testing and examination may be made on Products so returned.

### **Article 5 – Globalstar Disclaimer**

Notwithstanding any language in this Agreement to the contrary, Buyer acknowledges and agrees that if Buyer purchases Products for use with the Globalstar system, Buyer takes the Products, "as is and where is". Buyer further acknowledges that past hand-held satellite systems, such as Iridium, have failed for financial/economic/technical reasons and that Buyer willingly assumes the risk of a similar failure of the Globalstar system and further that Buyer will hold ESCI Communications and its affiliates harmless from any claims or liabilities, known or unknown, to Buyer in the event that the Globalstar system terminates Service for any reason.

### **Article 6 - Force Majeur**

ESCI shall not be liable for delays in performance arising out of causes beyond its reasonable control. Such causes include but are not limited to, acts of God, acts of Buyer, acts of any public enemy of the government, fires, flood, and riots.

### **Article 7 – Assignment**

This Agreement may be assigned by ESCI at any time in whole or in part. No rights or obligations of Buyer hereunder may be assigned or delegate in whole or in part without the prior written consent of ESCI.

### **Article 8 – Notices**

Notices to ESCI shall be sent to the attention of the Director, Contracts, at the address set forth on the reverse hereof. Notices to Buyer shall be sent to the attention of the person specified in the "ordered by" section of the reverse side of this Agreement. Notices shall be deemed given if sent by certified mail, established overnight courier or by facsimile with a dated receipt evidencing transmission.

### **Article 9 - Governing Law**

This Agreement shall be governed by the laws of the State of Florida, U.S.A. without regard to the conflict of law principles thereof and the laws of the United States.

### **Article 10 - Default / Breach**

In the event of any default or breach of this Agreement by Buyer, Buyer shall be liable for all of ESCI' related costs, including collection costs, attorney's fees, and court costs. Interest on any amounts due ESCI shall be accrued at the highest rate legally permitted.

### **Article 11 - General**

The terms and conditions of this Agreement shall prevail notwithstanding any variance with the terms and conditions of any order submitted by the Buyer. If ESCI, at its sole option, agrees to a waiver of any of the terms and conditions forth herein, such Waiver shall not constitute a waiver of any succeeding breach of the same or any other terms and conditions, Nor such waiver shall be deemed as a course of conduct. No order for the purchase of Products shall be binding on ESCI until ESCI actually acknowledges and accepts such order. The invalidity or unenforceability of any provision or portion of any provision of this Agreement in any jurisdiction shall not effect the validity, legality or enforceability of the remainder of this Agreement, being intended that all rights and obligations of the parties hereunder shall be enforceable to the fullest extent permitted by law. Any action by the Buyer against ESCI arising out of this Agreement must be commenced within one (1) year from the date the right, claim demand or cause of action first occurred, or be otherwise barred forever. All amendments or modifications to this Agreement must be in writing signed by the parties.

### **Article 12- Entire Agreement**

The buyer acknowledges that it has read these terms and conditions, understands them, accepts them and agrees to be bound by them. Buyer agrees that these terms and conditions are the complete and exclusive agreement relating to the sale of the products to buyer by ESCI.