

SIRTRACK NORTH AMERICA  
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## QUOTATION Number: 11032008A

|                   |                       |
|-------------------|-----------------------|
| <b>ATTENTION:</b> | Brett Hobson          |
| <b>TO:</b>        | Monterey Bay Aquarium |

|                 |                 |
|-----------------|-----------------|
| <b>FROM:</b>    | Chris Kochanny  |
| <b>DATE:</b>    | 3 November 2008 |
| <b>PHONE:</b>   |                 |
| <b>Payment:</b> | Net 30 days     |
| <b>EMAIL:</b>   |                 |
| <b>FOB:</b>     | ORIGIN          |

Sirtrack is pleased to present this quotation for the supply of the following which will be subject to the attached terms and conditions of sale:

| Quantity                                                   | Description                                                                                                                                                                                          | Unit Price | Total               |
|------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|---------------------|
| 3                                                          | Custom Model High Power Beacon Transmitter<br>Pulse rate= 60 ppm, Option = salt water switch,<br>(3) 1/2 AA batteries, Theoretical battery life =<br>160 days, Antenna = 400 mm, Weight =<br>80grams | USD 350.00 | USD 1,050.00        |
| 3                                                          | Custom Engineering= saltwater switch code and<br>testing and casing mold. (included in transmitter<br>price)                                                                                         | USD 0.00   | USD 0.00            |
|                                                            |                                                                                                                                                                                                      |            |                     |
| <b>ESTIMATED Freight and Insurance (Express Logistics)</b> |                                                                                                                                                                                                      |            | USD 85.00           |
| <b>TOTAL</b>                                               |                                                                                                                                                                                                      |            | <b>USD 1,135.00</b> |

No allowance has been made for any Import/GST duties Customs may add or courier brokerage fees.  
These fees shall not exceed 5% of total invoice. Scheduled despatch is typically 7 weeks from confirmation of the order/completion of job specifications and receipt of PO or Credit Card information.

This quotation is good for 60 days from the above date. I trust it meets with your acceptance and I look forward to hearing from you.

Kind regards

A handwritten signature in blue ink, appearing to be "Ch", is written above the printed name.

Chris Kochanny  
Director of North American Operations  
Wildlife Biologist  
Sirtrack North America

## SIRTRACK LTD - TERMS AND CONDITIONS OF TRADE

### 1. Definitions

- 1.1 "Seller" shall mean Sirtrack Ltd its successors and assigns or any person acting on behalf of and with the authority of Sirtrack Ltd.
- 1.2 "Customer" shall mean the Customer (or any person acting on behalf of and with the authority of the Customer) as described on any quotation, work authorisation or other form as provided by the Seller to the Customer.
- 1.3 "Guarantor" means that person (or persons), or entity, who agrees to be liable for the debts of the Customer on a principal debtor basis.
- 1.4 "Goods/Services" shall mean any Goods or Services supplied by the Seller to the Customer (including any advice or recommendations) and are as described on any invoices, quotation, work authorisation or any other forms as provided by the Seller to the Customer.
- 1.5 "Price" shall mean the price payable for the Goods/Services as agreed between the Seller and the Customer in accordance with clause 3 of this contract.

### 2. Acceptance

- 2.1 Any instructions received by the Seller from the Customer for the supply of Goods/Services and/or the Customer's acceptance of Goods/Services supplied by the Seller shall constitute acceptance of the terms and conditions contained herein.
- 2.2 Where more than one Customer has entered into this agreement, the Customers shall be jointly and severally liable for all payments of the Price.
- 2.3 Upon acceptance of these terms and conditions by the Customer the terms and conditions are binding and can only be amended with the written consent of the Seller.
- 2.4 The Customer shall give the Seller not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer or any change in the Customer's name and/or any other change in the Customer's details (including but not limited to, changes in the Customer's address, facsimile number, or business practice). The Customer shall be liable for any loss incurred by the Seller as a result of the Customer's failure to comply with this clause.
- 2.5 All documents, faxes or emails (including but not limited to purchase orders) received from the Customer in order to facilitate the supply of Goods by the Seller to the Customer shall be subject to the Seller's terms and conditions of contract contained herein. In the event that any such documents should contain the Customers own terms and conditions then those terms and conditions will not be accepted as binding upon the Seller and the Seller's terms and conditions will take precedence.

### 3. Price And Payment

- 3.1 At the Seller's sole discretion the Price shall be either:
  - (a) as indicated on invoices provided by the Seller to the Customer in respect of Goods/Services supplied; or
  - (b) the Seller's quoted Price (subject to clause 3.2) which shall be binding upon the Seller provided that the Customer shall accept the Seller's quotation in writing within thirty (30) days.
- 3.2 The Seller reserves the right to change the Price in the event of a variation to the Seller's quotation.
- 3.3 At the Seller's sole discretion a deposit may be required.
- 3.4 At the Seller's sole discretion payment shall be due before delivery of the Goods/Services.
- 3.5 Time for payment for the Goods/Services shall be of the essence and will be stated on the invoice or any other forms. If no time is stated then payment shall be due on twenty (20) days following the end of the month in which the invoice was issued.
- 3.6 Payment will be made by cash, or by cheque, or by bank cheque, or by credit card (payments will incur a 3% surcharge unless paid within seven (7) days of dispatch of the Goods or provision of the Services), or by direct credit, or by any other method as agreed to between the Customer and the Seller.
- 3.7 The Customer is solely responsible for payment of all charges incurred in remitting payment to the Seller and shall ensure that the amount credited to the Seller's bank account is equal to the Price.
- 3.8 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.

### 4. Delivery Of Goods/Services

- 4.1 At the Seller's sole discretion delivery of the Goods/Services shall take place when;
  - (a) the Customer takes possession of the Goods/Services at the Seller's address; or
  - (b) the Customer takes possession of the Goods/Services at the Customer's nominated address (in the event that the Goods/Services are delivered by the Seller or the Seller's nominated carrier); or
  - (c) the Customer's nominated carrier takes possession of the Goods/Services in which event the carrier shall be deemed to be the Customer's agent.
- 4.2 At the Seller's sole discretion the costs of delivery are;
  - (a) included in the Price, or
  - (b) in addition to the Price, or
  - (c) for the Customer's account.
- 4.3 The Customer shall make all arrangements necessary to take delivery of the Goods/Services whenever they are tendered for delivery. In the event that the Customer is unable to take delivery of the Goods/Services as arranged then the Seller shall be entitled to charge a reasonable fee for redelivery.
- 4.4 Delivery of the Goods/Services to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of this agreement.
- 4.5 The Seller may deliver the Goods/Services by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions in these terms and conditions.
- 4.6 The failure of the Seller to deliver shall not entitle either party to treat this contract as repudiated.
- 4.7 The Seller shall not be liable for any loss or damage whatever due to failure by the Seller to deliver the Goods/Services (or any of them) promptly or at all.

### 5. Risk

- 5.1 If the Seller retains ownership of the Goods/Services nonetheless, all risk for the Goods/Services passes to the Customer on delivery.
- 5.2 If any of the Goods/Services are damaged or destroyed following delivery but prior to ownership passing to the Customer, the Seller is entitled to receive all insurance proceeds payable for the Goods/Services. The production of these terms and conditions by the Seller is sufficient evidence of the Seller's rights to receive the insurance proceeds without the need for any person dealing with the Seller to make further enquiries.

### 6. Title

- 6.1 The Seller and Customer agree that ownership of the Goods/Services shall not pass until:
  - (a) the Customer has paid the Seller all amounts owing for the particular Goods/Services, and
  - (b) the Customer has met all other obligations due by the Customer to the Seller in respect of all contracts between the Seller and the Customer.
- 6.2 Receipt by the Seller of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then the Seller's ownership or rights in respect of the Goods/Services shall continue.
- 6.3 It is further agreed that:
  - (a) where practicable the Goods/Services shall be kept separate and identifiable until the Seller shall have received payment and all other obligations of the Customer are met; and
  - (b) until such time as ownership of the Goods/Services shall pass from the Seller to the Customer the Seller may give notice in writing to the Customer to return the Goods/Services or any of them to the Seller. Upon such notice being given the rights of the Customer to obtain ownership or any other interest in the Goods/Services shall cease; and
  - (c) the Customer is only a bailee of the Goods/Services and until such time as the Seller has received payment in full for the Goods/Services then the Customer shall hold any proceeds from the sale or disposal of the Goods/Services on trust for the Seller; and
  - (d) until such time that ownership in the Goods/Services passes to the Customer, if the Goods/Services are converted into other products, the parties agree that the Seller will be the owner of the end products; and
  - (e) if the Customer fails to return the Goods/Services to the Seller then the Seller or the Seller's agent may enter upon and into land and premises owned, occupied or used by the Customer, or any premises where the Goods/Services are situated as the invitee of the Customer and take possession of the Goods/Services, and the Seller will not be liable for any reasonable loss or damage suffered as a result of any action by the Seller under this clause.

### 7. Defects Upon Receipt Of The Goods/Services

- 7.1 The Buyer shall inspect the Goods/Services on delivery and shall within seven (7) days of delivery (time being of the essence) notify the Seller of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. Where the Goods/Services are considered by the Customer to be defective in any way then the Customer shall afford the Seller an opportunity to inspect the Goods/Services by returning them to the Seller (at the Customer's cost) within fourteen (14) days of the delivery date. If the Buyer shall fail to comply with these provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which the Seller has agreed in writing that the Buyer is entitled to reject, the Seller's liability is limited to either (at the Seller's discretion) replacing the Goods or repairing the Goods.

### 8. Warranty

- 8.1 Subject to the conditions of warranty set out in Clause 8.2 the Seller warrants that if any defect in the Goods/Services or in any workmanship of the Seller becomes apparent and is reported to the Seller in writing, within the periods specified in clauses 8.2(a) and 8.2(b) (time being of the essence), then the Seller will either (at the Seller's sole discretion) replace the Goods/Services, repair the Goods/Services, or remedy the workmanship.
- 8.2 The conditions applicable to the warranty given by Clause 8.1 are:
  - (a) The warranty period for all new wildlife tags, collars, transmitters, antennas and receivers is twelve (12) months or the specified life of the battery whichever first occurs.
  - (b) The warranty period for all re-pots (replace battery and re-seal) or repairs to wildlife tags, collars, transmitters, antennas and receivers is three (3) months or the specified life of the battery whichever first occurs.
  - (c) Warranty shall cover all labour, all materials (excluding batteries) and shall also include the costs of freight for returning the Goods/Services to the Customer.
  - (d) All warranty claims must be supported with written details of the failure of the Goods/Services and the return of the faulty Goods/Services within twelve (12) months of the warranty claim.

## SIRTRACK LTD - TERMS AND CONDITIONS OF TRADE CONTINUED

(e) The warranty shall not cover any defect or damage which may be caused or partly caused by or arise through:

(i) Failure on the part of the Customer to properly maintain any Goods/Services; or

(ii) Failure on the part of the Customer to follow any instructions or guidelines provided by the Seller; or

(iii) Any use of any Goods/Services otherwise than for any application specified on a quote or order form; or

(iv) The continued use of any Goods/Services after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user; or

(v) Fair wear and tear, any accident or act of God.

(f) The warranty shall cease and the Seller shall thereafter in no circumstances be liable under the terms of the warranty if the workmanship is repaired, altered or overhauled without the Seller's consent.

(g) In respect of all claims the Seller shall not be liable to compensate the Customer for any delay in either replacing or repairing the Goods/Services, remedying the workmanship, or in properly assessing the Customer's claim.

8.3 For Goods/Services not manufactured by the Seller, the warranty shall be the current warranty provided by the manufacturer of the Goods/Services. The Seller shall not be bound by nor be responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Goods/Services.

### 9. Consumer Guarantees Act 1993

9.1 If the Customer is acquiring Goods/Services for the purposes of a trade or business, the Customer acknowledges that the provisions of the Consumer Guarantees Act 1993 do not apply to the supply of Goods/Services by the Seller to the Customer.

### 10. Intellectual Property

10.1 Where the Seller has designed, drawn or written Goods/Services for the Customer, then the copyright in those designs and drawings and documents shall remain vested in the Seller, and shall only be used by the Customer at the Seller's discretion.

10.2 The Customer warrants that all designs or instructions to the Seller will not cause the Seller to infringe any patent, registered design or trademark in the execution of the Customer's order and the Client agrees to indemnify the Seller against any action taken by a third party against the Seller in respect of any such infringement.

### 11. Default & Consequences Of Default

11.1 Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% per calendar month and such interest shall compound monthly at such a rate after as well as before any judgement.

11.2 If the Customer defaults in payment of any invoice when due, the Customer shall indemnify the Seller from and against all costs and disbursements incurred by the Seller in pursuing the debt including legal costs on a solicitor and own client basis and the Seller's collection agency costs.

11.3 Without prejudice to any other remedies the Seller may have, if at any time the Customer is in breach of any obligation (including those relating to payment), the Seller may suspend or terminate the supply of Goods/Services to the Customer and any of its other obligations under the terms and conditions. The Seller will not be liable to the Customer for any loss or damage the Customer suffers because the Seller has exercised its rights under this clause.

11.4 If any account remains overdue after thirty (30) days then an amount of the greater of \$20.00 or 10.00% of the amount overdue (up to a maximum of \$200) may be levied for administration fees which sum shall become immediately due and payable.

11.5 Without prejudice to the Seller's other remedies at law the Seller shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to the Seller shall, whether or not due for payment, become immediately payable in the event that:

(a) any money payable to the Seller becomes overdue, or in the Seller's opinion the Customer will be unable to meet its payments as they fall due; or

(b) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or

(c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

### 12. Security And Charge

12.1 Despite anything to the contrary contained herein or any other rights which the Seller may have howsoever:

(a) where the Customer and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Customer and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to the Seller or the Seller's nominee to secure all amounts and other monetary obligations payable under these terms and conditions. The Customer and/or the Guarantor acknowledge and agree that the Seller (or the Seller's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be withdrawn once all payments and other monetary obligations payable hereunder have been met.

(b) should the Seller elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Customer and/or Guarantor shall indemnify the Seller from and against all the Seller's costs and disbursements including legal costs on a solicitor and own client basis.

(c) the Customer and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint the Seller or the Seller's nominee as the Customer's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 12.1.

### 13. Cancellation

13.1 The Seller may cancel any contract to which these terms and conditions apply or cancel delivery of Goods/Services at any time before the Goods/Services are delivered by giving written notice to the Customer. On giving such notice the Seller shall repay to the Customer any sums paid in respect of the Price. The Seller shall not be liable for any loss or damage whatever arising from such cancellation.

13.2 In the event that the Customer cancels delivery of Goods/Services the Customer shall be liable for any loss incurred by the Seller (including, but not limited to, any loss of profits) up to the time of cancellation.

### 14. Privacy Act 1993

14.1 The Customer and the Guarantor/s (if separate to the Customer) authorises the Seller to:

(a) collect, retain and use any information about the Customer, for the purpose of assessing the Customer's creditworthiness or marketing products and services to the Customer; and

(b) disclose information about the Customer, whether collected by the Seller from the Customer directly or obtained by the Seller from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Customer.

14.2 Where the Customer and/or Guarantors are an individual the authorities under clause 14.1 are authorities or consents for the purposes of the Privacy Act 1993.

14.3 The Customer and/or Guarantors shall have the right to request the Seller for a copy of the information about the Customer and/or Guarantors retained by the Seller and the right to request the Seller to correct any incorrect information about the Customer and/or Guarantors held by the Seller.

### 15. Unpaid Seller's Rights

15.1 Where the Customer has left any item with the Seller for repair, modification, exchange or for the Seller to perform any other Service in relation to the item and the Seller has not received or been tendered the whole of the Price, or the payment has been dishonoured, the Seller shall have:

(a) a lien on the item;

(b) the right to retain the item for the Price while the Seller is in possession of the item;

(c) a right to sell the item, and

(d) the right to retain all or part of the proceeds of the sale of the item in payment of the Price and any interest due to the Seller and any costs associated with such sale.

15.2 The lien of the Seller shall continue despite the commencement of proceedings, or judgement for the Price having been obtained.

### 16. General

16.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

16.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of New Zealand.

16.3 The Seller shall be under no liability whatever to the Customer for any indirect loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by the Seller of these terms and conditions.

16.4 In the event of any breach of this contract by the Seller the remedies of the Customer shall be limited to damages which under no circumstances shall exceed the Price of the Goods/Services.

16.5 The Customer shall not be entitled to set off against or deduct from the Price any sums owed or claimed to be owed to the Customer by the Seller.

16.6 The Seller may license or sub-contract all or any part of its rights and obligations without the Customer's consent.

16.7 The Seller reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which the Seller notifies the Customer of such change.

16.8 The provisions of the Contractual Remedies Act 1979 shall apply to this contract as if section 15(d) were omitted from the Contractual Remedies Act 1979.

16.9 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.

16.10 The failure by the Seller to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect the Seller's right to subsequently enforce that provision.

