

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

**PROJECT TITLE:**

MRV Communications  
Americas, Inc. Terms and  
Conditions of Sales and  
Service Sustainability for  
network connectivity to wide  
area network locations

- \_\_\_\_\_ Briefing
- \_\_\_\_\_ Proposed Action
- \_\_\_\_\_ Consent
- x   Action
- \_\_\_\_\_ First Reading
- \_\_\_\_\_ Second Reading
- \_\_\_\_\_ Third Reading
- \_\_\_\_\_ Public Hearing

COUNCIL BILL # \_\_\_\_\_  
 Originating Department Finance/Purchasing  
 Contact Person Clark Langstraat  
 Phone Number 425-257-8901  
 FOR AGENDA OF January 18, 2017

Initialed by:  
 Department Head \_\_\_\_\_  
 CAA dlb  
 Council President JT

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u> MRV Quote & Terms and Conditions of Sale and Service	<u>Department(s) Approval</u> Information Technology, Finance/Purchasing
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Amount Budgeted	\$1,668.14	
Expenditure Required	\$1,668.14	Account Number(s): 507 5220000480
Budget Remaining	-0-	
Additional Required	-0-	

**DETAILED SUMMARY STATEMENT:**

MRV Communications is a global provider in converged packet and optical solutions that power the world's largest networks. The City of Everett utilizes MRV equipment along with WAVE Cable fiber optic infrastructure to provide network connectivity at gigabit speeds to wide area network locations such as Police, Fire, Parks, Disaster Recovery Site and Libraries. Continuing annual maintenance provides troubleshooting support, replacements and software upgrades. The City needs to renew its account for the next term: December 28, 2016 to December 27, 2017 at a cost of \$1,688.14. MRV Terms and Conditions contain an indemnification clause.

**RECOMMENDATION** (Exact action requested of Council):

Authorize the Mayor to accept MRV's Communications Americas, Inc. Terms and Conditions of Sales and Service Substantially for network connectivity to wide area network locations in the amount of \$1,668.14.



MRV Communications Americas, Inc.  
 300 Apollo Drive  
 Chelmsford, MA 01824  
 P: 978.674.6800  
 F: 978.674.6754  
 E: [QM@mrv.com](mailto:QM@mrv.com)

**Quote Information**

Quote Number 00011827 Delivery Terms FOB: Origin  
 Payment Terms Net 30 Created Date 9/20/2016  
 Expiration Date 10/20/2016

**To:**

Bill To Name CITY OF EVERETT  
 Bill To PO BOX 12130  
 EVERETT, WA 98206  
 UNITED STATES  
 Ship To Name CITY OF EVERETT  
 Ship To 2930 WETMORE AVE STE  
 6A, TELECOMMUNICATIONS  
 EVERETT, WA 98201  
 UNITED STATES

**From:**

Prepared By Jennifer Foley  
 Company Name MRV Communications Americas, Inc.  
 Company Address 300 Apollo Drive  
 Chelmsford, MA 01824  
 US  
 Phone (978) 674-6831  
 Email [jfoley@mrv.com](mailto:jfoley@mrv.com)  
 Fax (978) 674-5750

EndUser Company CITY OF EVERETT

ABOVE QUOTE NUMBER MUST APPEAR ON ALL PURCHASE  
 ORDERS TO SECURE PRICING AND EXPEDITE ORDER  
 PROCESSING

**Line Items**

Part #	Line Item Description	Quantity	List Price	Discounted Price	Total Price
Renewal GOLD	Unlimited Service/Support Web site access with SW & Documentation Updates. 24x7 Priority Service/Support TAC for Telephone support. Advanced Hardware replacement - Same Business Day Ship (SBD). Cost: 10% of HW List	1.00	\$1.00	\$1,526.20	\$1,526.20

Grand Total

\$1,526.20

USD

*Handwritten signature and date:*  
 12-14-16

**Comments**

Quote Comments Term Dates: 12/28/16 to 12/27/17

**Note:**

PLC Status : "HPR" = Hardware Production Ready  
 "CA" = Controlled Availability  
 "GA" = General Availability

This quotation is submitted for your consideration, but if this quote contains unreleased products (PLC Status = HPR) it is not binding on and is subject to written or electronic acceptance by MRV Communications Americas, Inc. This quote may contain unreleased products, PLC Status = HPR, which are for a customer's budgetary purposes only and are only intended strategies, developments and functionalities of MRV's products and not intended to be binding upon MRV in any way. A firm price quote must be issued by MRV prior to the customer placing a purchase order with MRV. Prices apply to these quantities only. MRV deliveries will be quoted upon receipt of order. In addition to the terms included in this preliminary quotation, the MRV Communications Americas, Inc. Terms and Conditions of Sale and Service will apply and may be reviewed at <http://www.mrv.com/legal-notices>. The MRV Communications Americas, Inc. Terms and Conditions of Sale and Service cannot be changed, modified, or superseded by any other terms and/or conditions without MRV's prior written consent.

*Handwritten:* RQ 22724



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Chelmsford, MA 01824  
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F: 978.674.6754  
E: [OM@mrv.com](mailto:OM@mrv.com)



# Legal Notices

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## TERMS AND CONDITIONS OF SALE AND SERVICE

CAREFULLY READ THE FOLLOWING LEGAL AGREEMENT BETWEEN YOU AND MRV COMMUNICATIONS, INC. ("MRV"). IF YOU ARE PURCHASING PRODUCT AND/OR SERVICES FOR DELIVERY OR PERFORMANCE WITHIN EUROPE, THE MIDDLE EAST AND AFRICA, MRV INTERNATIONAL LTD. SHALL ALSO BE DEEMED A PARTY TO THIS LEGAL AGREEMENT. MRV Communications, Inc. , MRV Communications Americas, Inc. , MRV Communications Ltd and MRV International Ltd. shall be collectively referred to as "MRV" for purposes of this Agreement". By (a) purchasing or using MRV's products, including hardware products with embedded software or software products (the "Software") and documentation relating delivered therewith (each, a "Product"), or any updates or upgrades thereto and/or (b) purchasing an MRV Maintenance and Services Agreement for a Product (the "Services"), Purchaser will be bound by and become a party to these Terms and Conditions of Sale and Services (the "Agreement"). MRV shall not be bound by any additional, inconsistent and/or conflicting provisions in any order, release, acceptance or other written correspondence from Purchaser unless expressly agreed to in writing by MRV. Orders for Products and orders for Services shall be deemed separate contracts for the purpose of these terms and conditions. MRV's failure to object to terms contained in a Purchaser purchase order (or any other communication from Purchaser) shall not be deemed a waiver of these terms or any acceptance of the terms contained in Purchaser's purchase order.

### A. PRODUCT ONLY TERMS AND CONDITIONS

1. Security Interest. Purchaser will grant a security interest in the Products sold under this Agreement and the proceeds thereof until payment of the full purchase price to MRV. Purchaser agrees to execute any financing statements or other documents as MRV requests to protect its security interest.
2. Shipment of Products. MRV will use commercially reasonable efforts to ship the Products at the times requested in purchase orders accepted by MRV (in partial or full shipments); provided, that shipment may be delayed without liability of MRV for reasons beyond MRV's reasonable control. MRV reserves the right to make deliveries in installments and this Agreement shall be severable as to any such installments. Without liability to any person and without prejudice to any other remedy, MRV may withhold or delay shipment of any order if Purchaser is late in payment or are otherwise in default under this Agreement.

3. Acceptance of Orders. No order by Purchaser, regardless of whether a deposit has been accepted, shall be binding upon MRV until the order has been accepted by MRV. [An MRV order acknowledgement, electronic acceptance] or commencement of performance shall be deemed acceptance of the purchase order.
4. Delivery and Acceptance of Products. Delivery of the Product shall be "EXW" Ex-Works, MRV factory per INCOTERMS 2000. The cost of transportation, handling, insurance, export clearance, taxes, duties and other related fees will be the responsibility of the Purchaser. Unless otherwise instructed in writing, MRV may, in its reasonable discretion, select which carrier MRV will use to transport the Products to Purchaser. Subject to Section A(1), title to the Products (other than the Software) and the risk of loss of or damage to the Products ordered by Purchaser will pass to Purchaser upon MRV's tender of delivery to the carrier for shipment. The Products will be deemed accepted by Purchaser upon shipment.
5. License. MRV grants Purchaser a nonexclusive, nontransferable license to use the Software for Purchaser's internal business purposes in conjunction with Purchaser's use of the Products. MRV may provide third party software or hardware with the Products. In this case, Purchaser hereby agrees to any additional terms and conditions relating to the third party software or hardware that are specified to MRV's suppliers as described in the documentation delivered with the Product. Purchaser agrees that the Purchaser will not attempt, and will use the Purchaser's best efforts to prevent any other individual or entity, from attempting, to reverse engineer, disassemble, modify, translate, create derivative works, rent, lease, loan, distribute or sublicense the Products, in whole or in part.
6. Limited Warranty. MRV warrants that for a period of (i) two years from delivery of the Product, the hardware portion of the Product (other than Products included in MRV's LX Product Line ("LX Product"), MR Series Product Line ("MR Series Product") and pluggable optical transceivers included in or with the Product and) will perform without Defects; (ii) three years from delivery of the LX Product, the hardware portion of the LX Product will perform without Defects; (iii) one year from delivery of the Product, the pluggable optical transceivers included in or with the Product, will perform without Defects; and ; (iv) 90 days from delivery of the Product, the Product Accessories or Software portion of the Products will perform substantially without Defects. If a Product has a Defect, MRV shall, at its option, repair (which may include a workaround for the Defect) or replace the Product or refund the fees paid by Purchaser for such Product (following Purchaser return of the Product). Advance replacement will be given for Products that are dead on arrival ("DOA") free of charge (including shipping costs). A Product will be considered DOA when a defect is identified within a period of 90 days after the invoice date. In such cases, Purchaser is requested to place a purchase order for the replacement unit and will be credited as soon as the defective unit will be received at MRV repair facilities. The foregoing sets forth the Purchaser's sole and exclusive remedy for a breach of the above warranties. "Defect," as used in this Agreement, means a failure of a Product to operate in substantial conformance with MRV's technical specifications set forth in the end user manual.
7. Exception to Limited Warranty. The warranties set forth in Section A(6) shall not apply to (i) any Products which have been provided on a "sale or return," or similar conditional basis; (ii) any third party software or hardware, whether or not such third party software or hardware is provided by MRV; (iii) any Products which have been modified, repaired or altered, except by MRV; or (iv) any Products which have not been maintained in accordance with handling or operating instructions supplied by MRV or have been subjected to unusual physical or electrical stress, misuses, negligence or accidents. In addition, MRV's products that use pluggable transceivers were designed and tested with the pluggable transceivers offered by MRV. The warranty covers the safety, performance, and quality of the Product when used with MRV-branded and approved pluggable transceivers which are

specifically programmed to MRV specifications. MRV does not warrant MRV-branded pluggable transceivers when used in non-MRV products without the prior written consent from MRV.

8. Return Procedures. Products shall be non-returnable except as expressly provided in this Agreement. If returnable, Purchaser shall obtain a return material authorization ("RMA") from MRV prior to any return of a Product. An RMA can be obtained by contacting MRV Service. Purchaser shall return the Products with the RMA form to MRV's repair facility designated in the RMA, freight prepaid within 30 days of receipt of the RMA, with a written statement describing the Defect. Any damage suffered during the shipping of such Product to MRV will be repaired at Purchaser's expense. MRV shall only be obligated under its warranty for Defects which are reproducible by MRV in the execution environment. Except for Products not accompanied by an RMA (which will be returned to Purchaser freight collect), MRV will be responsible for all return shipping costs of repaired or replacement units to Purchaser. Replacement Products will be warranted for the remaining warranty period of the original Product, but not less than 90 days. The aforementioned return procedures do not apply to "sale or return," or similar types of conditional orders in which Purchaser has the option to either keep or return the Product after an initial evaluation period. "Sale or return," or similar types of conditional orders fall outside of the warranties set forth in Section A(6) and are governed by the terms and conditions pursuant to Purchaser's "sale or return," or similar types of conditional agreement.

## B. SERVICES ONLY TERMS AND CONDITIONS

1. Term of Services. Subject to product and duration approval, MRV Maintenance and Service Agreements (each, a "Service Agreement") are available for purchase on an annual or multi-year basis. Prior to expiration of an existing Service Agreement, the Purchaser will be given the opportunity to purchase additional coverage extended by way of year-to-year extensions. Such notification in the form of a Service Quotation will be presented to the Purchaser prior to the current Agreement's expiration date. Should the Purchaser accept the terms of the Service Quotation and elect to purchase the extended Service Agreement, the Purchaser will submit a Purchase Order to MRV prior to the expiration date of the Service Agreement currently in effect. The effective date of the extended Service Agreement will be the day after the current Agreement expires. If Purchaser fails to pay the annual Services fees, the applicable Services will automatically terminate without notice.
2. Scope of Services. Purchaser acknowledges and agrees that MRV provides a number of different Service Agreements as part of the Services. A description of the Services provided under each Service Agreement can be found at <http://www.mrv.com/service-and-support>. MRV will use commercially reasonable efforts to provide the Services under each Service Agreement that Purchaser purchases in a professional and workmanlike manner. MRV will use its best efforts to ensure that all service-related questions and problems are resolved to Purchaser's satisfaction.

## C. TERMS AND CONDITIONS APPLICABLE TO BOTH PRODUCTS AND SERVICES

1. The price of the Products and Services shall be that set forth in MRV's price list in effect at the time MRV accepts the Purchaser's order, less any applicable discount. Notwithstanding anything to the contrary in a separately written agreement by and between Purchaser and MRV, MRV reserves the right to change its price list without prior notice. Prices do not include freight, insurance or other similar charges. Any such charges will be added to the invoice or separately invoiced to Purchaser.

2. **Payment; Taxes.** Purchaser shall pay all invoices issued under this Agreement within 30 days from date of invoice. Past-due balances are subject to additional penalties, such as late fees and interest at the rate of 1.5% per month or the maximum rate allowable by law, whichever is less. Shipments, deliveries and performance of Services will at all times be subject to the approval of MRV's credit department and MRV may at any time decline to make any shipments or deliveries or perform any Services, except upon receipt of payment or upon terms and conditions or security satisfactory to MRV. Purchaser will pay or reimburse MRV for all sales, use, value-added and other taxes (except taxes on MRV's net income), and all customs duties and tariffs now or hereafter claimed or imposed by any governmental authority upon the sale of the Products, licensing of the Software or performance of the Services under this Agreement.
3. **Disclaimer of Warranties.** MRV's warranties as set forth herein ("Warranty") are contingent on proper use of the Products and do not apply if the Products have been modified without MRV's written approval, or if the Products' serial number label is removed, or if the Product has been damaged. The terms of the Warranty are limited to the remedies as set forth in this Warranty. THIS WARRANTY IS PROVIDED IN LIEU OF ALL OTHER RIGHTS, CONDITIONS AND WARRANTIES. MRV MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY WITH RESPECT TO THE SOFTWARE, HARDWARE, PRODUCTS, DOCUMENTATION OR MRV SUPPORT, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS. MRV DOES NOT WARRANT THAT ANY PRODUCTS WILL BE ERROR-FREE, OR THAT ANY DEFECTS THAT MAY EXIST IN ITS PRODUCTS CAN BE CORRECTED. IN NO EVENT SHALL MRV BE LIABLE FOR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, LOST PROFITS OR ANY OTHER SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOST DATA), HOWEVER CAUSED WHETHER OR NOT MRV HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE EXTENT A JURISDICTION DOES NOT ALLOW THE EXCLUSION OF AN IMPLIED WARRANTY, OR PLACES LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY MAY LAST, THE ABOVE EXCLUSIONS AND LIMITATIONS MAY NOT APPLY.
4. **Ownership; Confidentiality; Marking.** Title to and ownership of the Software and Documentation, and any improved, updated, modified or additional parts thereof, and all copyright, patent, trade secret, trademark and other intellectual property rights embodied in the Products, shall at all times remain the property of MRV or MRV's licensors. Purchaser may be exposed to certain information concerning the Products and/or Services, including without limitation, updates, upgrades, bug lists or other business information obtained through Purchaser's access to MRV's service agreements, which are MRV's confidential and proprietary information (herein "Confidential Information"). Purchaser agrees to exercise at least reasonable care with respect to the Confidential Information. Purchaser agrees not to (i) disclose to any third party any Confidential Information; or (ii) use the Products or other Confidential Information for any purpose not specified in this Agreement. Purchaser agrees to comply with all legends that appear on or in the Products and not to remove or destroy any copyright, logo, trademark, trade name, proprietary markings, or confidentiality legends placed upon or contained within Products or documentation supplied by MRV to Purchaser under this Agreement.
5. **Indemnification.** Purchaser agrees to indemnify and hereby hold MRV harmless from any liabilities, claims or damages, in contract and at law, arising out of (i) any act or omission by Purchaser (including but not limited to any use of a Product), or (ii) MRV's compliance with Purchaser's instructions, specifications or requirements.
6. **High-Risk.** Unless expressly instructed in writing by MRV to the contrary, the MRV Products and third-party Products purchased by Purchaser hereunder are not fault-tolerant and are not designed, certified, manufactured, or intended for use in hazardous environments requiring fail-safe or uninterrupted performance, including without limitation, the operation of nuclear facilities, aircraft

navigation or communication systems, air traffic control, direct life support machines, weapons systems, or disposal of hazardous waste, in which the failure of such software programs could lead, directly or indirectly, to death, personal injury, or severe physical or environmental damage (“High Risk Activities”). Purchaser agrees not to in any manner represent, directly or indirectly, that any MRV Product or third-party Product is in any way suitable for such High Risk Activities. MRV COMMUNICATIONS HAS NOT MADE ANY EXPRESS WARRANTIES, AND SPECIFICALLY DISCLAIMS ALL WARRANTIES WHICH COULD BE IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF FITNESS FOR ANY PARTICULAR PURPOSE SUCH AS HIGH RISK ACTIVITIES, AS SET FORTH IN SECTION C(3). Along with Purchaser’s indemnification of MRV as set forth in Section C(5), Purchaser shall, and agrees to, indemnify and hereby hold MRV harmless from and against any and all claims for losses, costs, damages, expenses, or liabilities which may arise out of, or be connected with, Purchaser’s failure to comply with this obligation.

7. **Limitation of Liability.** IN NO EVENT WILL MRV BE LIABLE TO PURCHASER FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO ANY LOST PROFITS AND LOST SAVINGS, HOWEVER CAUSED, WHETHER FOR BREACH OF CONTRACT, TORT, NEGLIGENCE, OR OTHERWISE, WHETHER OR NOT MRV WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. MRV’S TOTAL LIABILITY TO PURCHASER ARISING FROM OR IN RELATION TO THIS AGREEMENT SHALL BE LIMITED TO THE TOTAL AMOUNT PAID BY PURCHASER TO MRV UNDER THE PURCHASE ORDER FOR THE AFFECTED PRODUCT OR SERVICE. IN NO EVENT WILL MRV BE LIABLE FOR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES.
8. **Export and Sanction Restrictions.** Purchaser shall obtain all licenses, permits and approvals required by any government and shall comply with all applicable laws, rules, policies and procedures of the applicable government and other competent authorities. The U.S. Government prohibits Purchaser from entering into any financial transactions, including sales or other relationships, with prohibited destinations/nationals and other prohibited parties (including, but not limited to, any Specially Designated National (“SDN”), Blocked Person, Specially Designated Global Terrorist (“SDGT”) or Denied Person) as updated from time to time. Purchaser is responsible for knowing, remaining current with and complying with these and all other applicable laws, rules, policies and procedures and will indemnify and hold MRV harmless for any violation or alleged violation by Purchaser of such laws, rules, policies or procedures. Purchaser shall not transmit, export or re-export, directly or indirectly, separately or as part of any system, the Products or any technical data (including processes and services) received from MRV, without first obtaining any and all licenses required by the applicable government, including without limitation, the U.S. Government and/or any other applicable competent authority. Purchaser also certifies that none of the Products or technical data supplied by MRV under this Agreement will be sold or otherwise transferred to, or made available for use by or for, any entity that is engaged in the design, development, production, or use of nuclear, biological or chemical weapons or missile technology. If Purchaser resells or otherwise disposes of any Products or technical data purchased hereunder, it will comply with any export restrictions applicable to such transfer. MRV shall have no liability for delayed delivery or non-delivery resulting from denial, revocation, suspension or governmental delay in issuance, of any necessary export license or authority.
9. **Term and Termination.** The term of this Agreement shall continue unless terminated in accordance with this Section. Either party may terminate the Services in accordance with Section B(1). MRV may terminate this Agreement, including performance of the Services, at any time upon (i) Purchaser bankruptcy, insolvency or receivership; or (ii) any material default by Purchaser of this Agreement not cured within 30 days after Purchaser receives written notice thereof. Except for the

first sentence of Section A(5), the rights and obligations set forth in this Agreement shall survive any termination of this Agreement.

10. General Provisions (Excluding EMEA. See Section D(2)). In exercising Purchaser's rights under this Agreement, Purchaser agrees to comply strictly and fully with all export controls and regulations imposed on the Products and/or Services by the United States and any country or organization or nations within whose jurisdiction Purchaser operates or does business. Purchaser shall not assign this Agreement or transfer any of the rights or obligations arising under this Agreement without the prior written consent of MRV. This Agreement shall be binding upon, and inure to the benefit of, the successors and permitted assigns of the parties. This Agreement will be governed by and construed according to the laws of California, without regard to that body of law controlling conflicts of law. The parties agree that the United Nations Convention on Contracts for the International Sales of Goods is specifically excluded from application to this Agreement. In the event of any dispute or claim arising out of this Agreement, the parties hereby submit to the jurisdiction of the federal and state courts located in Los Angeles County, California, as applicable. Notices that are mailed shall be effective three days after mailing. Either party may change its address by giving written notice of such change in the manner provided. Notices to MRV shall be sent to: MRV COMMUNICATIONS, Inc., 295 Foster Street, Littleton, MA 01460, Attention: Director Sales Operations, Fax: (978) 952-5302. This Agreement may be amended or supplemented only by a writing that refers explicitly to this Agreement and that is signed by both parties. No waiver will be implied from conduct or failure to enforce rights, and no waiver will be effective unless in writing signed on behalf of the party against whom the waiver is asserted. If any part of this Agreement is found invalid or unenforceable that part will be enforced to the maximum extent permitted by law and the remainder of this Agreement will remain in full force. This Agreement represents the entire agreement between the parties relating to its subject matter and supersedes all prior or contemporaneous representations, discussions and agreements, whether written or oral.

#### D. SPECIAL TERMS AND CONDITIONS APPLICABLE TO PRODUCTS WITH DELIVERY TO EUROPE, MIDDLE EAST, AFRICA ("EMEA")

1. Delivery and Acceptance of Products in EMEA. Notwithstanding anything to the contrary in this Agreement, the following delivery and acceptance terms shall apply to all such Products delivered within Europe, the Middle East and Africa unless expressly written in purchase orders accepted by MRV: All Products will be shipped, at the customer's option, EXW Ex-Work MRV factory or, at the Purchaser's expenses, Cost Insurance and Freight ("CIF") generally to the airport/customs in Europe, Middle East or Africa destination country. Products delivered to countries' members in the European Community at the customer's option and expense and as approved by MRV, may be shipped Cost and Insurance Paid ("CIP"). MRV will select which carrier MRV will use to transport the Products ordered by Purchaser to the airport/customs in the destination country. Subject to Section A(1), title to the Products (other than the Software) and the risk of loss of or damage to the Products ordered by Purchaser will pass to Purchaser upon arrival at the airport/customs in the destination country. The Products will be deemed accepted by Purchaser upon shipment.
2. General Provisions for EMEA. In exercising the Purchaser's right under this Agreement, Purchaser agrees to comply strictly and fully with all export controls and regulations imposed on the Products and/or Services by the United States and any country or organization or nations within whose jurisdiction Purchaser operates or does business. Purchaser shall not assign this Agreement or transfer any of the rights or obligations arising under this Agreement without the prior written consent of MRV. This Agreement shall be binding upon, and inure to the benefit of, the successors and permitted assigns of the parties. This Agreement will be governed by the laws of Israel, without

regard to that body of law controlling conflicts of law. The parties agree that the United Nations Convention on Contracts for the International Sales of Goods is specifically excluded from application to this Agreement. Notices that are mailed shall be effective seven days after mailing. Either party may change its address by giving written notice of such change in the manner provided. Notices to MRV outside of the United States shall be sent to: MRV International Ltd., POB 114, Industrial Zone, Yokneam, Israel, Attention: Controller, Fax: +972 4 9892743. This Agreement may be amended or supplemented only by a writing that refers explicitly to this Agreement and that is signed on behalf of both parties. No waiver will be implied from conduct or failure to enforce rights, and no waiver will be effective unless in writing signed on behalf of the party against whom the waiver is asserted. If any part of this Agreement is found to be invalid or unenforceable, that part will be enforced to the maximum extent permitted by law and the remainder of this Agreement will remain in full force. This Agreement represents the entire agreement between the parties relating to its subject matter and supersedes all prior or contemporaneous representations, discussions and agreements, whether written or oral.

## Solutions

Service Providers

Data Centers and  
Enterprises

## Products

Pro-Vision®

OptiSwitch®

OptiPacket®

OptiDriver®

Media Cross Connect

LX Series

## Company

Our Company

Leadership

Quality & Regulatory  
Compliance

Careers

## Resources

Brochures

Datasheets

White Papers

Application Notes

Case Studies

Videos

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