

OPHIR OPTICS, LLC TERMS AND CONDITIONS OF PURCHASE

ACCEPTANCE: Unless Ophir Optics, LLC ("Buyer") and the seller to which a purchase order is issued, as shown on the face of the purchase order ("Seller") have entered into a separate written agreement governing the purchase and sale of goods and/or services, the terms set forth on the face of Buyer's purchase order and these Terms and Conditions of Purchase (the "Terms and Conditions") shall govern the purchase and sale of goods and/or services reflected in Buyer's purchase order. If Buyer and Seller have entered into a separate written agreement relating to the purchase and sale of goods and/or services, these Terms and Conditions shall apply only to the extent that they do not conflict with the separate written agreement between the parties. Seller's acknowledgment of the purchase order, commencement of work on the goods and/or services or shipment of such goods, whichever occurs first, shall be deemed Seller's acceptance of the purchase order and these Terms and Conditions. Any acceptance of the purchase order is limited to acceptance of the express terms contained on the face of the purchase order, these Terms and Conditions, and any other supplemental documents specifically referenced in the purchase order. If the purchase order shall be deemed an offer, any proposal for additional or different terms or any attempt by Seller to vary in any degree any of the terms of the offer in Seller's acceptance is hereby objected to and rejected, but such proposals shall not operate as a rejection of the offer unless such variances are in the terms of the description, quantity, price or delivery schedule of the goods, but shall be deemed a material alteration thereof, and the offer shall be deemed accepted by Seller without said additional or different terms. If the purchase order shall be deemed an acceptance of a prior offer by Seller, such acceptance is limited to the express terms contained on the face of the purchase order and in these Terms and Conditions.

PRICING AND PAYMENT; TAXES AND CHARGES: Buyer shall purchase the goods and/or services at the prices set forth in the purchase order. All prices shall include all transportation, handling, packaging, labeling, boxing, crating, insurance, taxes, license fees, import, export and customs fees and duties, tariffs, agent or brokerage fees, consular invoices, document fees and other charges related to the goods and/or services. Buyer will pay Seller for the goods and/or services delivered under the purchase order. Seller shall submit an invoice in duplicate to Buyer with each shipment of goods. Unless otherwise agreed to in writing by the parties, the payment terms for each undisputed invoice shall be net 30 days, in U.S. dollars. For payment of invoices and obtaining any discount, the time period shall be computed from: (i) the scheduled shipment date, (ii) the date of actual delivery, or (iii) the date an undisputed invoice is received by Buyer, whichever is later. For the purposes of earning a discount, payment shall be deemed made on the date of mailing of Buyer's check or Electronic Funds Transfer (EFT). Seller warrants that the prices for the goods and/or services sold to Buyer hereunder are not less favorable than those extended to any other customer for the same or similar goods and/or services in similar quantities. In the event Seller reduces its price for such goods and/or services, Seller agrees to reduce the prices of the goods and/or services covered by the purchase order correspondingly. All claims for money due or to become due from Buyer shall be subject to deduction or setoff by Buyer by reason of any counterclaim arising out of the purchase order or any other transaction between Buyer and Seller.

PACKING AND LABELING; DELIVERY: All goods shall be packed and labeled (at no additional charge) in accordance with good commercial practice and all applicable federal, state and local laws, regulations and orders (a) to insure against personal injury or harm, and against damage from weather, handling, and transportation, and (b) to permit efficient handling and secure lowest transportation charges. Seller shall pay all damages resulting from improper packaging of the goods. Unless otherwise agreed to in writing by the parties, all goods shall be delivered FOB destination. Title to the goods shall pass from Seller to Buyer, and Buyer shall assume all risk of loss, upon delivery of the goods to Buyer's designated receiving dock. Time is of the essence of this contract. If Seller fails to make deliveries in accordance with Buyer's delivery schedule, Seller will, at no additional cost to Buyer, employ accelerated measures such as material expediting fees, premium transportation costs, or labor overtime required to meet the specified delivery schedule or minimize the lateness of deliveries. If Seller fails to deliver all or any part of the goods in accordance with Buyer's delivery schedule, then Buyer may, in its sole discretion and in addition to any other rights or remedies it may have, cancel the purchase order with respect to any goods not yet delivered to and accepted by Buyer, procure substitute goods and charge Seller for the cost of cover. In the event of any such cancellation, Buyer's sole liability to Seller shall be limited to payment for units delivered to and accepted by Buyer at the time of Seller's receipt of the notice of cancellation. With respect to the portion of the purchase order not cancelled, if any, the unit price will not change and Seller will otherwise continue performance under the purchase order.

CHANGES: Buyer shall have the right at any time to make changes in drawings, designs, specifications, materials, quantities, packaging, time and place of delivery and method of transportation. If any such changes cause an increase or decrease in the cost, or time required for the performance, an equitable adjustment shall be made and the purchase order shall be modified in writing accordingly. Seller agrees to accept any such changes subject to this paragraph and proceed without delay to perform the order as changed. Unless Seller presents to Buyer an itemized claim within thirty (30) days after the receipt of notice of such change, Seller shall be conclusively deemed to have waived all claims against Buyer with respect thereto.

INSPECTION/TESTING: Payment for the goods delivered hereunder shall not constitute acceptance thereof. Buyer shall have the right to inspect such goods and to reject any and all goods which are, in Buyer's judgment, defective or nonconforming. Buyer may reject the entire order or any portion thereof that does not satisfy the AQL specified therein or, if not specified, a reasonable AQL. The unit prices of rejected goods will be credited against the invoice covering the shipment in which such goods were included, or debited against Seller's account. Goods rejected will be held at Seller's risk and subject to Seller's disposal for a reasonable time, and if not disposed of by Seller will be sold or otherwise disposed of by Buyer for Seller's account. Goods rejected and goods supplied in excess of quantities called for herein may be returned to Seller at its expense and, in addition to Buyer's other rights. Buyer may charge all expenses of unpacking, examining, repacking and reshipping such goods. In the event Buyer receives goods whose defects or nonconformity are not apparent on examination, Buyer reserves the right to require replacement, as well as payment of damages. Nothing contained herein shall in any way relieve Seller from its obligations of testing, inspection and quality control or from its warranty obligations hereunder.

WARRANTY: In addition to all warranties implied by law, Seller expressly warrants that all goods or services furnished under the purchase order will be new, will be free from defects in material, workmanship and design, and will conform to all applicable specifications, standards and samples. Seller warrants that all such goods or services will conform to any statements made on the containers or labels or advertisements for such goods, or services, and that any goods will be adequately contained, packaged, marked and labeled. The foregoing warranties shall extend to Buyer, its successors, assigns and customers, and users of such products sold by Buyer. Seller agrees to promptly replace, correct defects of, or issue a refund for, at Buyer's option and at no expense to Buyer, any defective or nonconforming goods or services, when notified of such defect or nonconformity by Buyer. In the event of failure of Seller to correct defects in or replace nonconforming goods or services promptly, Buyer, after reasonable notice to Seller, may make such corrections or replace such goods and services and charge Seller for the cost incurred by Buyer in doing so. Inspection, test, acceptance or use of the goods or services furnished hereunder shall not affect Seller's warranty obligations hereunder, and such warranties shall survive inspection, test, acceptance and use.

BUYER'S PROPERTY: Seller agrees that the information, tools, jigs, dies, etc., drawings, patterns, specifications and materials supplied or paid for by or charged to Buyer shall be and remain Buyer's property and shall be held by Seller for Buyer unless directed otherwise. With respect to all such items, Seller agrees (a) to account for them, (b) to keep them in good working condition, as applicable, (c) to keep them fully covered by insurance at no cost to Buyer, (d) use them only for the performance of Buyer's orders, and (e) promptly dispose or return them on request by Buyer.

CONFIDENTIALITY: Seller shall consider all information furnished by Buyer to be confidential (except that which is available to the public), shall not disclose any such information to any other person, or use such information itself for any other purpose other than performing its obligations under this purchase order, unless Seller obtains written permission from Buyer to do so. Seller shall return all copies of such information to Buyer on request. This paragraph shall apply to drawings, specification, other documents, tooling designs and the like prepared by Seller for Buyer or furnished by Buyer in connection with the purchase order.

CANCELLATION FOR CONVENIENCE: Buyer reserves the right to cancel the purchase order, in whole or in part, at any time for its sole convenience. In the event of any such cancellation, Buyer will be responsible for the following amounts (without duplication) with respect to any cancelled goods: (i) the price of all completed goods in Seller's possession as of the date of Buyer's notice of cancellation which were completed no earlier than necessary to timely deliver such units in accordance with Buyer's delivery schedule; and (ii) the actual cost of raw materials and work in process (WIP) which, as of the date of the notice of cancellation, have been ordered and/or assembled by Seller no earlier than necessary to timely deliver the cancelled goods in accordance with Buyer's delivery schedule. In no event shall Seller be compensated in any way for (1) any raw materials or WIP which may be incorporated into any standard or other products manufactured by Seller, (2) any raw materials ordered or work performed after receipt of Buyer's notice of cancellation, (3) any costs Seller could reasonably have avoided, or (4) any indirect overhead and administrative charges or profit of Seller. In no event shall such cancellation charges exceed to contract price for the cancelled goods. This paragraph states Buyer's sole responsibility and liability in the event of cancellation of the purchase order. Immediately upon receipt of any notice of cancellation, Seller shall stop all work on all affected goods and notify its suppliers to stop all work, and incur no further direct cost. Seller shall reasonably assess open orders, raw materials and WIP to determine whether or not such items can be cancelled, returned, or used by Seller for the manufacture of other products, and shall correspondingly reduce the amounts owed by Buyer hereunder by the value of any cancelable, returnable or usable items.

CANCELLATION FOR CAUSE: Buyer may cancel the purchase order, in whole or in part, at any time in the event of any default by Seller including: (i) late deliveries, or deliveries of products which are defective or which do not conform to the requirements of the purchase order, or failure to provide Buyer reasonable assurances of future performance, on request, (ii)

Seller's breach of any warranty, term, condition or covenant contained in the purchase order or these Terms and Conditions, or (iii) Seller becomes insolvent or makes a general assignment for the benefit of creditors or files or has filed against it a petition in bankruptcy or for reorganization, or pursues any other remedy under any law relating to the relief of debtors, or in the event a receiver is appointed for Seller's property or business. In the event of cancellation for cause, Buyer shall not be liable to Seller for any amount, and Seller shall be liable to Buyer for any and all damages sustained by reason of the default that gives rise to such cancellation.

INDEMNIFICATION: Seller will, at its expense, defend, indemnify and hold harmless Buyer and its customers and their respective officers, directors, employees and agents from and against any and all losses, costs, liabilities and expenses (including reasonable attorney's fees) arising out of any action brought against Buyer or any of its customers based on a claim that (a) any goods infringe the intellectual property rights of any third party, or (b) Seller's manufacturing process for the goods infringes the intellectual property rights of any third party. The foregoing indemnity shall not apply to the extent that the infringement arises from: (i) the use or incorporation of the goods in a manner or in combination with any other devices or parts not specified in the applicable specifications therefor or otherwise approved by Seller, (ii) modifications of the goods made by Buyer which were not approved by Seller; or (iii) Seller's compliance with any of Buyer's designs, specifications or instructions. In the event that any goods are found to be infringing in a manner for which Seller is obligated to indemnify Buyer hereunder, Seller shall promptly either (1) procure for Buyer and its customers the right to continue using such infringing goods; (2) replace the infringing goods with non-infringing goods of like form, fit or function; (3) modify the goods so that they no longer infringe; or (4) remove the goods and refund the purchase price to Buyer. Buyer shall give Seller prompt notice of any such claims, and shall permit Seller to direct the defense and the settlement of such claims, provided, however, that no settlement may be effected by Seller on behalf of Buyer without Buyer's written consent. Buyer may, at its expense and through counsel of its own choosing participate in the defense or settlement of any such claim. Seller will, at its expense, defend, indemnify and hold harmless Buyer and its customers and their respective officers, directors, employees and agents from and against any and all losses, costs, liabilities and expenses (including reasonable attorney's fees) arising out of or in connection with (i) Seller's breach of the purchase order or these Terms and Conditions, or (ii) Seller's performance under the purchase order to the extent caused by, in whole or in part, any grossly negligent act or omission or willful misconduct of Seller or its employees, agents or independent contractors, including but not limited to any act or omission that contributes to: (1) any personal injury, sickness, disease or death; (2) any damage to or destruction of property or any loss of use resulting therefrom; or (3) any violation of any statute, ordinance or regulation.

COMPLIANCE WITH LAWS; INSURANCE: Seller warrants and represents that all services and goods supplied hereunder have been performed, designed, produced, packaged, shipped, and sold in compliance with, and Seller agrees to be bound by, all applicable federal, state and local laws, orders, rules and regulations. Seller agrees to indemnify, defend and hold harmless Buyer and its customers from any liability, loss or damage arising out of Seller's failure to comply as set out herein. Seller shall maintain comprehensive general liability insurance covering bodily injury, property damage, contractual liability, products liability and completed operations, and worker's compensation and employer's liability insurance, in such amounts as are necessary to insure against the risks to Seller's operations. At Buyer's request, such policies shall include Buyer as an additional insured and loss payee thereof, as Buyer's interests may appear. At Buyer's request, Seller shall furnish to Buyer a certificate of insurance or other satisfactory evidence of insurance.

LIMITATION ON BUYER'S LIABILITY: IN NO EVENT SHALL BUYER BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR BREACH OF OR FAILURE TO PERFORM UNDER THIS CONTRACT, EVEN IF BUYER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BUYER'S LIABILITY ON ANY CLAIM OF ANY KIND FOR ANY LOSS OR DAMAGE ARISING OUT OF, OR IN CONNECTION WITH, OR RESULTING FROM THIS CONTRACT OR FROM THE PERFORMANCE OR BREACH THEREOF SHALL IN NO CASE EXCEED THE PRICE ALLOCABLE TO THE GOODS OR SERVICES OR UNITS THEREOF WHICH GIVES RISE TO THE CLAIM. BUYER SHALL NOT BE LIABLE FOR PENALTIES OF ANY KIND.

ASSIGNMENTS AND SUBCONTRACTING: No part of the purchase order may be subcontracted, sold, assigned or otherwise transferred by Seller, in whole or in part, by operation of law or otherwise, without the prior written consent of Buyer. A change in control of Seller (either through a sale of 50% or more of its capital stock, a merger or a sale of all or substantially all of its assets) shall be deemed an assignment requiring consent hereunder. This contract shall inure to the benefit of and be binding on the parties hereto and their respective successors and assigns (if such assignment was properly made pursuant to these Terms and Conditions).

APPLICABLE LAW; JURISDICTION AND VENUE; ATTORNEYS' FEES: This contract shall be governed by and construed in accordance with the laws of the State of California, U.S.A., without regard to its conflicts of law provisions. The parties agree that jurisdiction and venue for any actions relating to the purchase order or these Terms and Conditions will be in the state or federal courts located in the County of Orange, State of California. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in Orange County, State of California, for the adjudication of any dispute hereunder or in connection herewith and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, or that such suit, action or proceeding is improper. In the event of any action, suit or proceeding relating to the subject matter hereof, the prevailing party shall be entitled, in addition to any other rights and remedies it may have, to recover its reasonable attorneys' fees and related costs from the non-prevailing party.

GOVERNMENT CONTRACTS: To the extent that the purchase order is being issued, directly or indirectly, under a contract of the United States Government, all terms and conditions required by applicable law, regulation or by such Government contract are hereby incorporated herein by reference, including, but not limited to, the following provisions of the Federal Acquisition Regulation (the "FAR"): (1) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010); (2) 52.219-8, Utilization of Small Business Concerns (Dec 2010); (3) 52.222-26, Equal Opportunity (Mar 2007); (4) 52.222-35, Equal Opportunity for Veterans (Sep 2010); (5) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010); (6) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010); (7) 52.222-50, Combating Trafficking in Persons (Feb 2009); (8) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006); (9) 52.203-7 Anti-Kickback Procedures (Oct 2010); (10) 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (Sept 2007); (11) 52.203-12, Limitation on Payments to Influence Certain Federal Transactions (Oct 2010); and (12) 52.209-5, Certification Regarding Responsibility Matters (Apr 2010). To the extent that these Terms and Conditions are inconsistent with any such required terms and conditions, the required terms and conditions will prevail and be binding on Seller. Seller represents and warrants that it is in compliance with the foregoing FAR provisions, unless exempted or inapplicable. Seller agrees that it will furnish to Buyer upon request a certificate or certificates in such form as Buyer may require certifying that Seller is in compliance with such provisions and any other applicable terms, conditions, laws or regulations. Seller shall include the terms of this clause in all subcontracts awarded under the purchase order.

GENERAL: Neither party shall be liable for any failure or delay in its performance under the purchase order due to causes including, but not limited to, acts of God, acts of civil or military authority, fires, epidemics, floods, earthquakes, riots, wars, sabotage, labor shortages or disputes, and governmental actions, which are beyond its reasonable control; provided that the delayed party: (i) gives the other party written notice of such cause promptly, and in any event within fifteen (15) days of discovery thereof; and (ii) uses its reasonable efforts to correct such failure or delay in its performance. If the delay in performance by Seller is greater than thirty (30) days from the date of notice, Buyer will have the option, in its sole discretion, to either extend the time of delivery or performance, or terminate the uncompleted portion of the purchase order immediately without any further liability to Seller. The performance by Seller of its duties and obligations under the purchase order shall be that of an independent contractor and nothing contained therein or herein shall create or imply an agency relationship between Seller and Buyer, nor shall this contract be deemed to constitute a joint venture or partnership between Seller and Buyer. Neither party has any authority to make commitments or enter into contracts on behalf of, bind, or otherwise obligate the other party. If for any reason a court of competent jurisdiction finds any provision of the purchase order or these Terms and Conditions, or portion thereof, to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to effect the intent of the parties, and the remainder of the purchase order and these Terms and Conditions shall continue in full force and effect. No waiver of any breach of any provisions of this contract shall be effective unless made in writing and signed by Buyer and Seller. No failure or delay by either party in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder. The purchase order and these Terms and Conditions together constitute the entire agreement between Buyer and Seller with respect to the subject matter hereof, and supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter. No provision contained in any quote form, order acknowledgment form, invoice or similar form of Seller will be effective. In the case of conflict between the terms set forth in the purchase order or these Terms and Conditions and any such form of Buyer, the terms of the purchase order and these Terms and Conditions will prevail. In the case of conflict between the terms set forth on the face of the purchase order and these Terms and Conditions, the terms set forth on the face of the purchase order will prevail. No amendment to or modification of the purchase order or these Terms and Conditions shall be binding unless in writing and signed by a duly authorized representative of both parties. Seller shall not make or authorize any news release, advertisement or other disclosure which shall deny or confirm the existence of the purchase order, without the prior written consent of Buyer, except to the extent required by law. Seller shall not use the name of Buyer in promotional, advertising and other materials without the prior written consent of Buyer.