



Ophir Optronics Solutions Ltd. Standard Terms and Conditions of Sale

Ophir Optronics Solutions Ltd. ("Ophir") provides the following Standard Terms and Conditions of Sale ("Terms and Conditions"), which apply to all quotations and sales made by Ophir. All purchases of products ("Goods" or "Products") from Ophir by customer, owner, or its agent ("Purchaser") are subject to these Terms and Conditions, and no provision printed or otherwise, contained in any order, acceptance, confirmation, or acknowledgement which is inconsistent with, different from, or in addition to these Terms and Conditions is accepted by Ophir unless specifically agreed to in writing by a duly authorized officer of Ophir.

ORDERS: By submitting an order to Ophir or by using any Goods that were purchased from Ophir, Purchaser agrees to be subject to these Terms and Conditions of Sale in their entirety. All orders must be bona fide commitments showing mutually agreed prices, quantities and shipping terms. If an order is submitted to Ophir in response to a written Ophir quotation, the order must contain the Ophir Quotation number. No order or other commitment, whether or not submitted in response to a quotation by Ophir, shall be binding upon Ophir until such order or other commitment is accepted in writing by Ophir. Confirmation of Purchaser's order by Ophir is subject to verification of Purchaser's credit worthiness.

TIME LIMIT. All quotations are valid for a period of thirty (30) days, unless otherwise specified in writing.

SHIPMENT. Unless otherwise agreed in writing by the parties, pricing and shipping terms shall be Ex-works Ophir plant in Jerusalem. If the Purchaser has not issued inspection or shipping instructions by the time the Goods are ready for shipment, Ophir may select any reasonable method of shipment, without liability by reason of its selection. Shipments made on Purchaser's behalf shall be insured at Purchaser's expense. If Ophir is required to arrange for shipment of the Goods or any parts thereof, Purchaser shall reimburse Ophir for all freight, insurance and other shipping related costs and Purchaser will pay Ophir a handling fee for each such shipment. Shipment of Goods held by reason of Purchaser's request or inability to receive Goods will be at the risk and expense of Purchaser. In no event shall Ophir be liable for any delay in delivery (provided that Ophir timely delivers the Products to the carrier as provided above), or assume any liability in connection with shipment, nor shall the carrier be deemed an agent of Ophir.

OBLIGATION TO INSPECT. Purchaser shall inspect all Products promptly upon receipt. The furnishing by Ophir of a Product to Purchaser shall constitute acceptance of that Product unless Ophir receives a written notice of defect or nonconformity within seven (7) days after receipt by Purchaser, provided, that such acceptance shall not relieve Ophir of its warranty obligations hereunder.

PRICES AND PAYMENT TERMS. The prices for all Products shall be as set forth in the accompanying Ophir quote and/or order acknowledgment. Payments will be made in accordance with the specified payment schedule, including the payment period, in the purchase order that was accepted by Ophir. Unless otherwise specified in a purchase order that was accepted in writing by Ophir, all payments are due net thirty (30) days from the date of invoice. Purchaser's failure to make payment when due will be a material breach of the order and these Terms and Conditions. Ophir, at its sole discretion, may charge the Purchasers for a late fee of 1.5% per month on the outstanding amount until the date of actual payment. In addition, Ophir, at its sole discretion and without incurring any liability, may suspend its performance until such time as the overdue payment is received or until written approval by Ophir of an alternative payment schedule has been issued. In the event of such suspension of performance by Ophir, there will be an equitable adjustment made to the delivery schedule and order price reflecting the duration and cost resulting from such suspension. Purchaser may only suspend the order upon Ophir's written consent. In the event of such Purchaser's order suspension, the delivery time will be changed, taking into account the suspension, and Purchaser will promptly pay Ophir for all costs and related overhead costs resulting from such

suspension. Ophir will equitably re-price the Goods and services if the cumulative suspension exceeds ninety (90) days. If in the judgment of Ophir, Purchaser's financial position does not justify the terms of payment specified, Ophir may require full or partial payment prior to shipment of the Goods. Purchaser agrees to furnish Ophir with the required credit information.

TAXES. Federal, state, or local indirect taxes, including but not limited to sales and/or use taxes, VAT taxes, GST taxes, transfer taxes or any similar tax are not included in the prices set forth herein. In the absence of proper evidence of exemptions supplied to Ophir, Purchaser will reimburse Ophir for all taxes, excises, duties, imposts or other charges which Ophir may be required to pay any government (national, state or local) upon, or measured by the production of any phase or part of the production, storage, sale, transportation, delivery and/or use of the Goods.

LIMITED WARRANTY; DISCLAIMER OF WARRANTIES. Ophir warrants that the Goods sold hereunder shall be free from material defects in workmanship or materials and conform in all material respects to Ophir specifications, which are available upon request, or Purchaser's supplied and accepted specifications, for the following Warranty Period: Two (2) years from the original date of shipment from Ophir for Laser Beam Diagnostic products; and one (1) year from the original date of shipment from Ophir with respect to laser power meters, laser energy meters, laser measurement tools and spectral analysis instruments. This warranty does not cover: (i) Purchaser-furnished materials; and (ii) damage to sensor.

All warranty claims must be submitted in writing to Ophir within the applicable warranty period and all non-conforming Goods must be returned to Ophir, at purchaser's cost and expense, before Ophir replaces the same or refunds the purchase price to the Purchaser as set forth below. No Goods shall be returned to Ophir without obtaining a Return Material Authorization (RMA) number first which must be clearly marked on the outside of the shipping container. The warranty for products repaired after the expiration date of the new products warranty, as stated above, is limited to the repaired portion and is valid for ninety (90) days from the date of reshipment.

Ophir's liability for breach of warranty shall be limited to, in Ophir's sole discretion, (i) repairing or replacing Goods that Ophir determines do not conform to the foregoing warranty, or (ii) refunding the sales price received by Ophir in respect of the non-conforming Goods. This remedy shall be the Purchaser's sole and exclusive remedy for any defect or nonconformity in the Goods. This warranty extends only to the immediate purchaser from Ophir and does not extend, expressly or impliedly, to any other party.

In no event shall Ophir incur any obligation to repair or replace Goods which are determined by Ophir, at its sole discretion, to be defective due to (i) installation, maintenance, operation, modification, alteration, accident, neglect or use in any way other than in strict compliance with Ophir's published specifications for the Goods, (ii) the failure to maintain appropriate environmental conditions, as communicated by Seller, (iii) as the result of the use of unauthorized parts or repairs, or unauthorized modifications (iv) any repair work on the product that is performed by the Purchaser or any third party on behalf of the Purchaser (other than Ophir), or (v) modification or alteration of the Goods such that Ophir is unable to verify the defect with its standard test equipment.



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EXCEPT FOR THE EXPRESS LIMITED WARRANTY STATED HEREIN, THE GOODS ARE SUPPLIED ON AN "AS IS" BASIS AND PURCHASER'S USE OF THE GOODS IS AT PURCHASER'S RISK. OPHIR DOES NOT MAKE AND HEREBY DISCLAIMS ALL OTHER EXPRESS AND/OR IMPLIED WARRANTIES WITH RESPECT TO THE GOODS, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OR ANY WARRANTIES ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE AND ANY WARRANTIES OF NONINFRINGEMENT AND TITLE.

INTELLECTUAL PROPERTY RIGHTS; INDEMNITY. When furnished, designed, developed and/or manufactured by Ophir, all tools and/or dies, together with incidental fixtures and materials necessary for the manufacture of Goods ordered, shall remain the property of Ophir. All tools, dies, fixtures and/or materials will be maintained for one (1) year after shipment. Unless otherwise agreed to in writing by Ophir, Ophir shall own all right, title and interest in and to the patent, design and other intellectual property rights related to all products sold to Purchaser hereunder, and nothing contained herein shall give Purchaser any right to utilize any such intellectual property in any manner whatsoever except in connection with Purchaser's use of the applicable product in accordance with the documentation for the same provided by Ophir.

Goods are sold to accepted manufacturing variations or tolerances, except when otherwise agreed to by both parties.

Ophir shall indemnify and hold harmless Purchaser from any final award of damages in any suit or proceeding instituted against Purchaser based upon a claim that a Product or the Software sold or licensed hereunder infringes any patent or copyright of a third party. Ophir shall defend, at its expense, any such suit or proceeding provided that: (a) Purchaser gives Ophir prompt notice in writing of any such suit and permits Ophir through counsel of its choice, to answer the charge of infringement and defend such suit; and (b) Purchaser gives Ophir all the needed information, assistance and authority, at Ophir's expense to enable Ophir to defend such suit. Ophir shall not be responsible for payment of any amounts under any settlement made without its prior written consent. The foregoing indemnity shall not apply to the extent such alleged or actual infringement arises as a result of (i) the use or incorporation of such Product or Software in a manner or in combination with any other products, devices or parts not specified in Ophir's specifications therefor, (ii) modifications of such Product or Software made by Purchaser or any party (other than Ophir) which were not approved by Ophir, or (iii) Ophir's compliance with any of Purchaser's designs, specifications or instructions. In the event that a court of competent jurisdiction determines in a final, non-appealable order that the Product or the Software is infringing in a manner for which Ophir is obligated to indemnify Purchaser pursuant to this paragraph, Ophir shall, at its option, either (1) procure for Purchaser the right to continue using such infringing Product or Software; (2) replace the infringing Product or Software with a non-infringing item of like form, fit or function; (3) modify the Product or Software so that it no longer infringes; or (4) remove the Product or Software and refund the purchase price to Purchaser. THIS PARAGRAPH STATES OPHIR'S SOLE RESPONSIBILITY AND LIABILITY, AND THE PURCHASER'S SOLE REMEDY, FOR ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT OR COPYRIGHT BY ANY PRODUCT OR SOFTWARE DELIVERED HEREUNDER OR ANY PARTS THEREOF. THIS PARAGRAPH IS IN LIEU OF AND REPLACES ANY OTHER EXPRESS, IMPLIED OR STATUTORY WARRANTY AGAINST INFRINGEMENT. IN NO EVENT SHALL OPHIR BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY SUCH INFRINGEMENT. Purchaser shall indemnify and hold harmless Ophir from and against any expense or loss resulting from any actual or alleged infringement of any patent or copyright arising as a result of (a) Ophir's compliance with any of Purchaser's designs, specifications or instructions, (b) the use or incorporation of

such Product or Software in a manner or in combination with any other products, devices or parts not specified in Ophir's specifications therefor, or (c) modifications of such Product or Software by Purchaser or any party (other than Ophir) which were not approved by Ophir. Purchaser shall defend, at its expense, any suit brought against Ophir alleging any such infringement provided that Ophir (i) gives Purchaser prompt notice of any such suit and permits Purchaser, through counsel of its choice, to defend such suit and (ii) gives Purchaser all needed information, assistance and authority, at Purchaser's expense, necessary for Purchaser to defend any such suit.

LICENSE TO USE SOFTWARE. Purchaser acknowledges that the software or firmware components and applications, if any, accompanying the Products sold hereunder (the "Software") are licensed and not sold to Purchaser. Ophir shall at all times have and retain title and full ownership of the Software. Upon receipt of full payment therefor, Ophir grants to Purchaser a nonexclusive, personal, nontransferable, limited and royalty-free license to use and execute such Software in object code form only and only in conjunction with the operation of the associated Product. Purchaser shall receive no rights to the Software except as expressly provided herein. No license to use the source code of the Software is provided hereunder. Purchaser agrees that it shall not use, distribute, license, sublicense, resell or otherwise transfer all or any part of the Software or supporting documentation other than as expressly permitted hereunder without the prior written consent of Ophir. Purchaser agrees that it shall not, nor shall it permit any employee or agent of Purchaser to, adapt, modify, copy, reproduce, reverse engineer, decompile, or disassemble the Software in any way without the prior written consent of Ophir. Except as expressly set forth herein, Ophir shall have no obligations to Purchaser whatsoever with regard to the Software. Without limiting the generality of foregoing, Ophir has no obligation to develop updates or modifications to the Software or develop or provide Software development tools to Purchaser.

AGREEMENT NOT TO REPLICATE. Purchaser agrees not to copy, replicate or reverse engineer the Products, use the Products as tools or molds, or to permit such actions by any third party. THE PARTIES ACKNOWLEDGE AND AGREE THAT THEY ARE ENTERING INTO THIS AGREEMENT ON THE UNDERSTANDING THAT THE PRICE FOR THE PRODUCTS TO BE PROVIDED HAS BEEN SET TO REFLECT THE FACT THAT PURCHASER AGREES NOT TO COPY OR REPLICATE PRODUCTS, TO USE PRODUCTS AS TOOLS OR MOLDS, OR TO PERMIT SUCH ACTIONS BY ANY THIRD PARTY, AND IF NOT SO ACKNOWLEDGED AND AGREED, THE PRICES FOR THE PRODUCTS WOULD HAVE BEEN SUBSTANTIALLY HIGHER.

CHANGES, CANCELLATIONS. Specification changes made after Purchaser places an order are subject to price adjustments and to Ophir's written approval and Purchaser will reimburse Ophir for all loss and expenses incurred by Ophir arising out of such change. Cancellations shall be by mutual agreement in writing, provided that Purchaser will reimburse Ophir for all loss and expenses incurred by Ophir arising out of such cancellation.

TITLE AND RISK OF LOSS OR DAMAGE. All Products will be delivered EXW Ophir's factory in Jerusalem. Title to all products (except for title to any Software which shall at all times remain with Ophir) shall pass from Ophir to the Purchaser and Purchaser shall assume all risk of loss or damage, upon delivery of the Products to the carrier, unless otherwise agreed by both parties in writing.

GOVERNING LAW & JURISDICTION. All matters involving the validity, interpretation, and application of these Standard Terms and Conditions of Sale will be controlled by the laws of the State of Israel without reference to the conflicts of laws provisions and without reference to the provisions of any convention that applies to international sale of goods (including without limitation the Uniform Commercial Code and the UN Convention on Contracts for the International Sale of



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Goods ("CISG"). All disputes arising out of this Standard Terms and Condition of Sale or related to its violation or execution will be submitted to the exclusive jurisdiction of the competent court of law in Jerusalem, Israel; provided, however, that nothing herein shall prevent Ophir from commencing suit for interim relief or equitable remedies (whether temporary or permanent) in any jurisdiction it may deem fit and provided that Ophir shall be entitled to take any action against the Purchaser at his place of residence.

CONSEQUENTIAL DAMAGES; LIMITATION OF LIABILITY. IN NO EVENT SHALL OPHIR BE LIABLE TO PURCHASER FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT LIMITATION, LOSS OF PROFIT, COSTS OF DELAY, ANY FAILURE OF DELIVERY, COSTS OF LOST OR DAMAGED DATA OR DOCUMENTATION, COST OF REMOVAL AND REINSTALLATION OF GOODS, LOSS OF GOODWILL, INTERRUPTION OF BUSINESS, LIABILITIES TO THIRD PARTIES ARISING FROM ANY SOURCE OR OTHER ECONOMIC LOSS, WHETHER OR NOT PURCHASER HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES AND WHETHER SUCH DAMAGES ARE ALLEGED AS A RESULT OF TORTIOUS CONDUCT, BREACH OF CONTRACT OR OTHERWISE.

OPHIR' TOTAL LIABILITY FOR EACH DEFECTIVE PRODUCT, INCLUDING WITHOUT LIMITATION INTELLECTUAL PROPERTY INDEMNIFICATION, SHALL NOT EXCEED THE PRICE OF SUCH PRODUCT.

FORCE MAJEURE. No liability shall result from delay in performance or non-performance (except with respect to payment by Purchaser) to the extent that it results from any cause (including without limitation, weather, fire, strike or other labor difficulty; breakdown, shortage of or inability to obtain materials, equipment or transportation; act, order, regulation or request of governmental body or court; or other force majeure beyond the reasonable control of the party affected or obligated hereunder. If Ophir' supply of Goods is limited by any such cause, Ophir shall have the right to prorate Ophir' available supply over Ophir' own manufacturing requirements and Ophir' commitments to its customers as Ophir considers fair.

EXPORT. Ophir's obligation to deliver the Goods to Purchaser shall be at all times subject to all applicable export laws and regulations and conditioned upon the receipt of an appropriate export license, when such license is required under applicable laws and regulations. Regardless of any disclosure made by Purchaser to Ophir of an ultimate destination of Ophir Products, Purchaser will not export either directly or indirectly any Product purchased from Ophir nor any system incorporating said product, in violation of any applicable laws, regulations and treaties relating to the sale and transfer of the Products, including without limitation, U.S. export control laws and regulations, particularly the requirements of the U.S. Export Administration Act ("EAA"), 50 U.S.C. app. 2401-2420, including the Export Administration Regulations ("EAR"), 15 C.F.R. pts 730-774, Israeli and/or European export control regulations nor will sell or transfer the Products without first obtaining all required licenses and permits from the relevant authorities in the US, Europe or Israel, as the case may be, all to the extent that such licenses are required under applicable export control laws and regulations. Without derogating from the generality of the foregoing, Purchaser : (i) shall not sell or transfer any of the Products to any county, company or individual to which the export is prohibited under applicable US, Israeli or European laws and regulations because of embargoed, denied parties, or end uses restriction; (ii) shall not use the Products for any nuclear-related activities as described in § 744.2 of the EAR; (iii) shall not use the Products in any design, development, production, stockpiling, or use of chemical or biological weapons and /or for the design, development, production or use of rocket or missile systems or unmanned air vehicles that: (a) are capable of a range of at least 300 kilometers; and/or (b) are for the delivery of chemical, biological or nuclear weapons, regardless of range capabilities (or for

which the range capability and/or use are not known or cannot be determined and/or disclosed);

NON-WAIVER OF DEFAULT; REMEDIES: In the event of any default by Purchaser under this or any other contract between Ophir and Purchaser, Ophir may decline to make further shipments. If Ophir elects to continue to make shipments, Ophir's action shall not constitute a waiver of any default by Purchaser or in any way affect Ophir's legal remedies for any such default. All Ophir's rights and remedies, whether evidenced hereby or by any other contract or document, shall be cumulative and nonexclusive and may be exercised singularly or concurrently.

HEADINGS. The headings used throughout are for convenience only and will be disregarded for the purpose of construing and enforcing these Terms and Conditions.