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Definitions. As used herein, the following definitions shall have the following meanings:

“**Seller**” means, as applicable, the party selling, licensing, renting, leasing and/or loaning the Goods, which in turn means, as applicable, CyberOptics Corporation and/or one or more of its wholly-owned subsidiaries worldwide.

“**Buyer**” means the party buying, licensing, purchasing, renting and/or leasing the Goods from Seller.

“**Agreement**” means, as applicable and in the following order of precedence: (a) the terms and conditions set forth or referenced in any Separate Software License; (b) any separate terms and conditions agreed to in writing by both parties; (c) the terms and conditions set forth or referenced in Seller’s most current and applicable written quotation; (d) the Supplemental Scanning Terms; (e) the terms and conditions set forth in this document; (f) the terms and conditions set forth and/or associated with Seller’s standard policies and procedures as determined and reasonably interpreted by Seller; and (g) the terms and conditions in Buyer’s most recent purchase order received by Seller prior to shipment of the Goods, but only to the extent that such terms and conditions do not conflict with any of the other foregoing terms and conditions and do not result in an increase in Seller’s costs, expenses, obligations, risk and/or liability assumed by Seller under any of the other foregoing terms and conditions.

“**Supplemental Scanning Terms**” means the additional and supplemental terms that apply only to Seller’s 3D scanning services and that are referenced on Seller’s applicable, written quotation and/or are otherwise communicated to Buyer and which are available on Seller’s website at www.cyberoptics.com.

“**Open Source Software**” means software commonly referred to as “open source software” as defined by the Open Source Initiative (www.opensource.org).

“**Separate Software License**” means a set of terms and conditions that govern the licensing of specific Software that is third party owned Software, public domain Software and/or Open Source Software and that has been communicated to Buyer with, as part of, or separately from such Software.

“**Software Updates**” means any available repairs for any particular Software that may be in the form of corrections, fixes and/or patches to address Software bugs or inconsistencies, and/or to address non-conformance with the applicable Software Specifications.

“**Software Upgrades**” means any available new versions or releases for any particular Software that provide new and/or enhanced features, performance and/or capabilities.

“**Specifications**” means, as applicable and in the following order of precedence: (a) any specifications mutually agreed to in writing by Seller and Buyer; and/or (b) Seller’s, or in the case of Resale Products, the original manufacturer’s, standard published specifications for the Goods. In the absence of both of the foregoing, the Specifications shall mean the specifications as determined by Seller in its reasonable and sole discretion.

“**Goods**” means, as applicable, one or more of the following items:

- (a) “**Products**”, which, excluding SMT Inspection Machines, means: (i) all of Seller’s commercially available, proprietary products, whether or not described and marketed on Seller’s website at www.cyberoptics.com; (ii) Resale Products, but only if described and marketed on Seller’s website; and (iii) any Software intended to operate in or as part of any of the foregoing products.

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- (b) “**Resale Products**”, which means non-proprietary Goods that Seller purchases from original manufacturers and then resells to customers under the original manufacturer’s trade, brand and/or product names.
- (c) “**SMT Inspection Machines**”, which means and is strictly limited to Seller’s proprietary and commercially available surface mount technology (SMT) inspection systems that are described and marketed on Seller’s website as “SMT Inspection” systems under the product names SE, SQ and QX, and includes any Software intended to operate in or as part of any of the foregoing systems.
- (d) “**Parts**”, which means, as applicable, all spare parts and options for the Products or SMT Inspection Machines, and includes any Software intended to operate in or as part of any of the foregoing parts or options
- (e) “**Software**”, which means all software code of any kind and in any form, including without limitation, and as applicable, software in the form of object/executable code, software source code and firmware, and includes, as applicable, Seller owned proprietary software, third party owned software, public domain software, and Open Source Software, as well as any available Software Updates or Software Upgrades related to any of the foregoing.
- (f) “**Services**”, which means all services of any kind, including without limitation, 3D scanning services; installation, training and support services; and recalibration services.

This Agreement is subject and expressly limited to the terms and conditions contained and referenced in this Agreement and binds Seller and Buyer with respect to Seller’s supply, and Buyer’s procurement, of the applicable Goods. Any terms or conditions stated by Buyer in any prior, concurrent and/or subsequent request for proposal, offer, purchase order, other documents and/or other written or verbal communications are deemed by Seller to be a material alteration of this Agreement and are hereby rejected and inapplicable unless specifically agreed to in writing by Seller. **Buyer is deemed to have accepted this Agreement and all of its terms and conditions, without exception, if any one or more of the following events occur: (a) Buyer communicates to Seller its acceptance of the applicable Seller quotation; (b) Buyer issues Seller a purchase order that includes the same Goods and prices as set forth on Seller’s corresponding and applicable quotation; and/or (c) Seller begins to make, assemble, supply, or in the case of services, provide, the Goods covered by the applicable Seller quotation and/or sales documents.**

1. **GOODS & PRICES:** Except as otherwise set forth in writing by Seller, the Goods to be supplied by Seller and the prices therefor shall be as set forth in Seller’s applicable quotation, provided however, if the prices are not set forth in any such quotation, then the price shall be in accordance with Seller’s then-current full list price for such Goods, or in the absence thereof the prices shall be as determined by Seller in its sole, reasonable discretion. Quotes shall be valid for thirty (30) days from the date of the quotation unless, prior to Buyer acceptance, Seller expressly rescinds the quotation during such 30-day period, or unless Seller expressly extends the quotation in writing. Seller makes no warranty or representation of any kind with respect to the prices quoted and charged to Buyer as compared to the prices quoted and/or charged to any other customers. In order to procure the quoted Goods, and unless otherwise agreed by Seller in its sole discretion, Buyer must issue a written purchase order to Seller and such purchase order must reflect the Goods and prices set forth in any applicable Seller quotation. Any subsequent changes to Buyer’s purchase order will have no effect unless accepted by Seller in writing, and any such changes must be made via a newly issued or amended Buyer purchase order unless otherwise agreed to in writing by Seller in its sole discretion.
2. **SHIPPING, RISK OF LOSS & TITLE:** All shipping dates are approximate and are based on Seller’s prompt receipt of an accurate Buyer purchase order and all information necessary to properly process and ship the order to the location designated by Buyer. All shipping terms used in this Agreement (ExWorks or ‘EXW’; Delivered at Place or ‘DAP’) shall have the meanings as set forth under the International Chamber of Commerce (ICC) Incoterms® 2010. Except for warranty-based shipments, all Goods are shipped EXW Seller’s applicable facility. All Goods shipped to Buyer under warranty are shipped DAP from the applicable Seller facility, meaning Seller is responsible for all freight costs and Buyer is responsible for clearing such warranty related Goods through local customs in the country where the Goods are shipped to and paying all costs associated therewith, including without limitation, all duties, value added

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taxes (VAT), goods sold taxes (GST) and/or other local taxes, fees and costs of any kind imposed by local customs. Subject to Section 8(a) below related to Software, and regardless of the applicable Incoterm, title to and risk of loss for the Goods shall transfer to Buyer upon tender of the Goods to the carrier at the applicable Seller facility. With respect to Resale Products, and as used in this Agreement, Seller's facility shall mean the original manufacturer's facility if the Goods originally shipped to Buyer from such facility. With respect to Services, and as used in this Agreement, the term "shipment" shall mean the beginning of the provision of the Services. And with respect to Software, and as used in this Agreement, the term "shipment" shall mean the physical shipment of Software if it was physically shipped to Buyer (including in or as part of any Products or SMT Inspection Machines) and shall mean the electronic transmittal to Buyer if the Software was electronically transmitted to Buyer.

3. **TAXES:** Prices do not include any applicable taxes on goods sold, which shall be payable by Buyer unless exempted by applicable law. Except for taxes due on Seller's net income, Buyer shall be responsible for, and if incurred by Seller Buyer shall reimburse Seller for, any taxes of any kind that are paid or payable by Seller related to Seller's supply or Buyer's use of the Goods.
4. **PAYMENT:**
 - (a) Except as otherwise required by Seller in its sole discretion (e.g., payment in advance, milestone payments, payment by letter of credit), Buyer agrees to pay Seller's full invoiced amount, in U.S. currency, net thirty (30) days from the date of the invoice. Payment by credit card is authorized for any purchase order not exceeding \$10,000 USD.
 - (b) If any payment owed to Seller hereunder is not paid when due, Seller may charge Buyer a late payment charge on any past outstanding balance in an amount up to the maximum amount permitted by applicable law.
 - (c) If the Buyer fails to make any payment when due, Seller shall have the right, among other remedies, to terminate or suspend performance under this Agreement and/or any other agreements with Buyer.
 - (d) Buyer shall be liable to and shall pay Seller for all direct and incidental expenses and costs incurred by Seller related to the collection of any past due amounts, including without limitation, reasonable attorneys' fees related thereto and/or costs associated with the time and resources expended by Seller's personnel related thereto.
 - (e) In lieu of the liability and payment set forth in Section 4(d) above, and to the extent permitted under applicable law, Seller may request, and if requested Buyer agrees to pay Seller, as liquidated damages, an amount equal to fifteen percent (15%) of the past due amount. The parties agree that actual expenses and costs attendant to such collection efforts may be difficult to calculate, document and/or agree upon, particularly those related to the time and resources expended by Seller's personnel, and as such the parties agree that the aforesaid amount does not represent a non-payment penalty or charge, but rather a reasonable and good faith estimate of the actual expenses and costs incurred by Seller as a result of its collection efforts.
 - (f) Any requests for payment by Seller or any actual payment made by Buyer pursuant to Sections 4(d) or Section 4(e) above shall not relieve Buyer from its obligation to pay in full any past due amounts owed to Seller. With respect to any payments due to Seller under Section 4(d) or Section 4(e), such amounts shall be paid to Seller within fifteen (15) calendar days of the date of Seller's written demand or invoice related thereto.
 - (g) Seller reserves a purchase money security interest in the Goods sold only to the extent of the invoiced amount and solely for the purpose of securing Buyer's payment obligation hereunder. This Agreement is a security agreement. At Seller's request, Buyer agrees to promptly execute any instrument or statement, and otherwise cooperate with Seller, in order to perfect the aforesaid security interest; provided however, that in the event Buyer fails to comply with any such request, Buyer authorizes Seller, or a representative on behalf of Seller, to sign and file the necessary instruments or statements for and on the behalf of Buyer.
5. **DOCUMENTATION:** Seller shall provide Buyer with that documentation that: (a) is specifically identified in Seller's applicable quotation and/or sale documents; and (b) that is made commercially available and provided by Seller with the applicable Goods in Seller's normal course of business. Seller may, in its sole discretion, provide Buyer with other documentation requested by Buyer, provided however, that if Seller does agree to provide such other documentation, Seller reserves the right to charge Buyer a reasonable fee therefor as determined by Seller. Seller grants Buyer a non-exclusive license and right to use and copy such documentation solely for internal purposes and as reasonably needed to own, use and maintain the applicable Goods.

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6. **RECEIVING / INSTALLATION:** Except as set forth in Seller's applicable quotation and/or sales documents, or as separately communicated by Seller to Buyer in writing, Buyer shall be responsible for receiving, moving, storing, unpacking, selecting the location for, installing and starting up all Goods.
7. **CANCELLATION / RESCHEDULING:**
All orders received by Seller are binding and non-cancellable except: (a) if otherwise agreed in writing by Seller prior to Seller beginning its performance related thereto; or (b) in the case of SMT Inspection Machines, Buyer may cancel its order at any time prior to shipment by providing written notice thereof to Seller and paying Seller liquidated damages in the following amounts: (i) if the order is cancelled within 10 calendar days after Seller's receipt of Buyer's purchase order, then an amount equal to twenty-percent (20%) of the total order price; (ii) if the order is cancelled within 11 to 30 calendar days after Seller's receipt of Buyer's purchase order, then an amount equal to thirty-five (35%) of the total order price; (iii) if the order is cancelled between 31 and 60 calendar days after Seller's receipt of Buyer's purchase order, then an amount equal to fifty percent (50%) of the total order price; and (iv) if the order is cancelled 61 or more calendar days after Seller's receipt of Buyer's purchase order, then an amount equal to seventy-five percent (75%) of the total order price. The parties agree that actual damages stemming from any order cancellation will be difficult to calculate and as such, the parties agree that the aforesaid amounts do not represent a cancellation penalty, but rather a reasonable and good faith estimate of the actual damages incurred as a result of the cancellation. To the extent Buyer has made any payments prior to cancellation, Seller may apply such payments against the aforesaid liquidated damages. In addition to the amounts due Seller as set forth above, Buyer shall also be responsible for all non-cancellable travel costs incurred by Seller related to the cancelled order, if any. Regardless of any liquidated damage payments, Seller will retain ownership and possession of any Goods and materials related thereto for any cancelled order, whether or not such Goods are finished or are work-in progress. All orders are non-reschedulable unless otherwise agreed by Seller in writing in Seller's sole discretion.
8. **SOFTWARE:**
- (a) Except as otherwise required under applicable law or expressly provided under the applicable Software license: (i) Seller and/or any applicable third party owners shall retain exclusive right, title and ownership in and to the Software; (ii) the software licenses provided in this Agreement do not convey to Buyer any interest in such Software or any part thereof; and (iii) the Software consists of proprietary material and information of Seller and/or any applicable third party owners and is protected under U.S. and foreign copyright and other intellectual property laws, as well as international treaty provisions.
 - (b) If a Separate Software License is provided with the Software, referenced on the Seller order documents, and/or is otherwise communicated to Buyer, then such Software shall be licensed and governed, in order of precedence, by the terms of the Separate Software License, and then by any applicable and non-conflicting terms in this Section 8 unless such Separate Software License prohibits the inclusion of any such non-conflicting terms.
 - (c) If no Separate Software License applies, and Seller has included a software license with or in the Software, then such Software shall be licensed and governed by such included license. If no Separate Software License applies and no license was included with or in such Software, then Seller hereby grants to Buyer, and Buyer accepts, a limited, personal, and non-exclusive license and right, without the right to sublicense: (i) to use the Software only with the specific, applicable Products, SMT Inspection Machines or Parts supplied by Seller for which the Software is intended to be used in and/or operated with; or (ii) if the Software is not intended to be used in and/or operated with any Seller supplied Products, SMT Inspection Machines or Parts, then to use the Software only on a single computer owned, leased or otherwise under the control of Buyer. Any concurrent use of such Software and/or any use of such Software on a local area or other type of network is prohibited unless stated otherwise in writing by Seller in its sole discretion.
 - (d) Buyer's license rights in the Software shall include the right to use the Software in any manner expressly described in the applicable license terms and, if applicable, as described in any documentation provided by Seller and/or the third party owner of the Software.
 - (e) Except as required to be permitted by applicable law or by the terms of a Separate Software License, Buyer is not entitled to any Software source code; provided however, that no terms, conditions or provisions set forth or referenced in this Agreement shall restrict or otherwise affect any rights and/or obligations that Seller and Buyer may have under any Open Source Software license included with or in any Open Source Software, including if

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applicable, the obligations and rights to provide, make available and/or receive any source code related to any such Open Source Software.

- (f) The aforesaid Software licenses shall be non-transferable except solely as provided in this Section 8(f). Any Software embedded in the Goods shall be transferable with the transfer of the Goods to another party, provided however, that such transfer must be on terms and conditions that do not materially conflict with the applicable license terms set forth in this Agreement. Any Software that is not embedded shall be transferrable, provided: (i) Buyer transfers all of its rights in such Software to the transferee; (ii) Buyer provides the transferee with all copies of the Software, a copy of all Software documentation, a copy of this Agreement, and a copy of all applicable third party owned and/or Open Source Software licenses; and (iii) the transferee accepts the aforesaid license terms. If Buyer transfers the Software as permitted herein, and except as may be provided in a Separate Software License, Buyer may not retain any copies of the Software for its own use and Buyer's license rights under this Agreement are terminated.
 - (g) The aforesaid applicable Software licenses shall continue and be in effect until: (i) Buyer's breach of any applicable Software license terms, in which case, such Software license shall be automatically terminated upon such breach; or (ii) if there is no breach of the applicable Software license terms, then for the period communicated by Seller to Buyer in writing, or if no such period is communicated, then for an indefinite period.
 - (h) Unless payment in full occurs prior to shipment, Seller's proprietary Surveyor Scan Control (SSC) Software is provided with a temporary license, which will be converted to permanent license upon Seller's receipt of the required full payment.
9. **LIMITED WARRANTY:** The following warranty terms shall apply to all Goods solely during the applicable warranty period as set forth in Sections 9(a) through 9(d) below. If Buyer has used the Goods under normal use and care and discovers any defects in material or workmanship, and/or any substantial non-compliance with the applicable Specifications, and notifies Seller thereof in writing during the applicable warranty period, Seller shall, at its option and sole discretion: (i) use reasonably commercial efforts to repair, replace or correct that portion of the Goods found by Seller to be defective in material or workmanship, and/or found by Seller to be in substantial non-compliance with the applicable Specifications; or (ii) refund the purchase price of such Goods. To the extent possible and practical in Seller's reasonable discretion, all warranty repairs and corrections shall be completed by retuning the Goods, or defective and/or non-complying Parts thereof, as instructed by Seller to Seller's designated facility in accordance with its then-current return material authorization (RMA) procedures. Prior to the return of any such Goods or Parts, Buyer must contact Seller and obtain a Seller RMA number and corresponding RMA return instructions. Shipments to Buyer of warranty-based repaired or replaced Goods or Parts shall be shipped DAP from the applicable Seller facility, meaning that Seller shall be responsible for the freight cost and Buyer shall be responsible for clearing such Goods through local customs in the country the Goods are being shipped to and paying all costs associated therewith, including without limitation, all duties, value added taxes (VAT), goods sold taxes (GST) and/or other local taxes, fees and costs of any kind imposed by local customs. The above limited warranty shall not apply if the defects in material and/or workmanship, and/or the non-compliance with Specifications, is based in whole or part, on: (i) improper installation or use by Buyer; (ii) improper or inadequate maintenance; (iii) unsuitable power sources and/or environmental conditions; (iv) repair, alteration or modification by Buyer unless and only to the extent such is authorized by Seller in writing; (v) handling or storage by parties other than Seller; (vi) accidents not caused by Seller; or (vii) any other cause not the fault of Seller. Except as expressly set forth in this limited warranty, all costs incurred by Buyer relating to or arising out of this warranty, including without limitation, those related to dismantling, preparation for shipment and/or reinstallation of the Goods or Parts therefor, shall be borne by Buyer. Except as expressly set forth in the Specifications, Seller makes no warranty or representation that the Goods supplied hereunder will comply with any local laws, rules, regulations or ordinances of any kind and Buyer shall be responsible for obtaining all permits, licenses, authorizations and/or certificates required by any regulatory body for installation or use of the Goods. This limited warranty is the only warranty made by Seller, and SELLER DOES NOT WARRANT THAT THE USE OF THE GOODS OR ANY PARTS THEREOF WILL BE UNINTERRUPTED OR ERROR FREE, AND THERE ARE NO OTHER WARRANTIES OR REPRESENTATIONS OF ANY KIND WITH RESPECT TO THE GOODS OR ANY PARTS THEREOF, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT.

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- (a) Products and Parts not supplied under warranty are warranted for a period of twelve (12) months from the date of shipment by Seller, except when identified as refurbished, in which case the warranty period shall be six (6) months from the date of shipment. Any repairs, corrections and/or replacements of the foregoing items, in whole or part, shall be warranted for the longer of: (i) the remaining portion of the original twelve (12) month warranty period; or (ii) ninety (90) days from completion of the correction, repair and/or replacement.
 - (b) SMT Inspection Machines are warranted for a period of three (3) years from the date of shipment by Seller; provided however, that: (i) the first year of this warranty shall cover both labor and Parts, including conveyor belts and other consumables; and (ii) the second and third years of this warranty shall cover only Parts, excluding conveyor belts and other consumables. Any warranty-based labor provided during the first year of this warranty shall be warranted for the remaining portion of the original one-year labor warranty or ninety (90) days after completion thereof, whichever is longer. Any warranty related Parts provided to Buyer during the three-year Parts warranty period shall be warranted for the remaining portion of the three-year Parts warranty or ninety (90) days from shipment, whichever is longer.
 - (c) During the applicable warranty period, Seller will provide Buyer, at no charge, with any available and applicable Software Updates. After such warranty period, Seller will provide Buyer with any available and applicable Software Updates in accordance with Seller's standard prices therefor, if any. Software Upgrades are not covered by any warranties, and to the extent made available by Seller, shall be provided in accordance with Seller's standard prices therefor.
 - (d) Software that is not intended to operate with or in any Products, SMT Inspection Machines or Parts is warranted for a period of ninety (90) days from the date of shipment.
10. **RESALE PRODUCTS:**
- (a) With respect to Resale Products described and marketed on Seller's website at www.cyberoptics.com, the terms and conditions of this Agreement shall apply. However, with respect to Artec Resale Products, Artec's then-current Terms and Conditions of Sale ("Artec Terms") available on Seller's website shall also apply as between Artec and Buyer as if Buyer had purchased the Artec Resale Products directly from Artec. As between Buyer and Artec, and notwithstanding anything in this Agreement to the contrary, such Artec Terms shall control in the event of any conflict with any other terms of this Agreement.
 - (b) With respect to any Resale Products not described and marketed on Seller's website, and notwithstanding anything in this Agreement to the contrary, Buyer agrees that Seller shall have no liability for such Resale Products beyond making a reasonable commercial effort to arrange for procurement and shipping thereof to Buyer, and such Resale Products are supplied to Buyer "AS IS" and with no warranties or representations of any kind, express or implied.
11. **INTELLECTUAL PROPERTY OWNERSHIP:** At all times, Seller and/or its applicable suppliers will solely own all patents, trade secrets, copyrights, trade marks, and any other intellectual property rights of any kind in and related to the Goods. From time-to-time, Buyer may voluntarily provide Seller with suggestions or requests related to improvements, enhancements and/or other modifications to the Goods or parts thereof ("Feedback"). In the event Buyer does voluntarily provide Seller with such Feedback, both parties agree that Seller shall own all right, title and interest therein as well as any intellectual property rights related thereto. In consideration of Seller agreeing to supply Buyer with the Goods, Buyer agrees to assign, and hereby does assign, all right, title and interest in such Feedback, as well as any intellectual property rights therein, to Seller.
12. **INTELLECTUAL PROPERTY DEFENSE:** Subject to the limitations contained in Section 13 below, Seller shall defend any suits brought against Buyer based on a claim that use of the Goods manufactured by Seller constitutes an infringement of a valid United States patent. The foregoing shall apply provided Buyer promptly notifies Seller in writing of the filing of such suit or the threat thereof, Buyer permits Seller to control the defense or compromise of such claim of infringement, and Buyer provides Seller, at Seller's expense, with all reasonable assistance and cooperation requested by Seller for the defense of such suit. In the event that only the Goods manufactured by Seller are held to be infringing in such suit and the use of such Goods is enjoined, Seller shall, at its sole option and expense: (a) provide Buyer with a commercially reasonable alternative, including but not limited to, procuring for Buyer the right to continue using the Goods, replacing the Goods with a non-infringing product, or modifying the Goods to become non-infringing; or (b) provide Buyer with a refund equal to the purchase price of the Goods depreciated on straight-line basis over a five-year period beginning from the date of shipment of the Goods. Seller shall not be liable in any manner for any claim of infringement or misappropriation of any intellectual property rights brought by or

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against Buyer more than five years from the date of shipment of the affected Goods, or which results from the design and/or modification of the Goods or any part thereof by a party other than Seller, or which arises from the use of the Goods or any part thereof in combination with items not manufactured and supplied by Seller. The terms of this Section 12 represent Buyer's sole and exclusive remedy for any third party intellectual property based claims against Buyer.

13. **LIMITATION OF REMEDY AND LIABILITY:** THE SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF WARRANTY UNDER THIS AGREEMENT SHALL BE LIMITED TO REPAIR, CORRECTION, REPLACEMENT OR REFUND UNDER THE LIMITED WARRANTY SET FORTH IN SECTION 9 ABOVE. IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE), SHALL SELLER'S LIABILITY TO BUYER EXCEED THE PRICE TO BUYER OF THE SPECIFIC GOODS GIVING RISE TO THE CLAIM OR CAUSE OF ACTION. BUYER AGREES THAT IN NO EVENT, SHALL SELLER'S LIABILITY TO BUYER EXTEND TO INCLUDE INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. THE TERM "CONSEQUENTIAL DAMAGES" SHALL INCLUDE, WITHOUT LIMITATION, DAMAGES BASED ON: (I) LOSS OF ANTICIPATED REVENUE OR PROFITS; (II) LOSS OF USE OR DATA; (III) DELAY IN PERFORMANCE; AND (IV) THIRD PARTY CLAIMS AGAINST SELLER RELATED TO THE GOODS SUPPLIED TO BUYER. SELLER AND BUYER AGREE THAT THE LIMITATIONS SET FORTH IN THIS PROVISION SHALL BE ENFORCED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, EXTEND TO THE BENEFIT OF SELLER'S SUPPLIERS.
14. **CONFIDENTIAL INFORMATION:** Any information disclosed by Seller to Buyer related to this Agreement, including quotations, pricing, technical information or otherwise, shall be deemed "Confidential Information" of Seller. Buyer shall not disclose any such Confidential Information to any third parties without Seller's prior written consent and shall not use such Confidential Information except to the extent reasonably related to the purchase and use of Seller's Goods. Seller shall, at all times, retain all right, title and interest in the Confidential Information and all copies and derivatives thereof. Notwithstanding the foregoing, Confidential Information shall not include information which is or becomes publicly known through no wrongful act of Buyer.
15. **GOVERNING LAW/DISPUTES:**
 - (a) This Agreement shall be construed, performed and enforced under the laws of the State of Minnesota, U.S.A., exclusive of its conflict of law provisions. The 1980 United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.
 - (b) The parties irrevocably agree that all claims, actions, proceedings or disputes of any kind that directly or indirectly arise out of this Agreement, or that directly or indirectly relate to this Agreement, in any way, manner or respect, which cannot be resolved by mutual agreement between the parties, shall be resolved and decided exclusively by one of the following dispute resolution options selected solely by Seller in its sole discretion: (i) by and via any state or federal courts of competent jurisdiction located only in Hennepin county in the State of Minnesota, U.S.A.; (ii) by and via any courts of any kind (including state or federal courts if Buyer is located in the U.S.A.) of competent jurisdiction where Buyer is located, whether in the U.S.A. or in a foreign country, based on Buyer's "sold to" address as set forth on Seller's order and invoice documents; or (iii) by and via binding arbitration in accordance with the then-current rules of the American Arbitration Association by one or more arbitrators appointed in accordance with said rules, and such arbitration shall be conducted only in the city of Minneapolis, Minnesota, U.S.A. Buyer understands and agrees with Seller's sole right to select one of the listed dispute resolution options in Seller's sole discretion and that such right and selection is reasonable and forms a material basis for Seller agreeing to enter into this Agreement with Buyer. Additionally, Buyer irrevocably and unconditionally: (i) submits to the jurisdiction and venue set forth in the dispute resolution option selected by Seller; (ii) waives any objection to the laying of venue as set forth in the dispute resolution option selected by Seller; and (iii) waives and agrees not to plead or claim in any applicable court, arbitration or other proceeding, that such suit, action or proceeding has been brought in an inconvenient forum. Notwithstanding the foregoing, either party may, at any time, apply to a court having

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jurisdiction for a preliminary injunction and/or other equitable relief where such relief is necessary to protect the party's interests, including before or during any dispute resolution actions.

- (c) This Agreement shall be interpreted and construed in the English language and any legal proceedings, arbitration or other actions or formal communications of any kind related to this Agreement shall be in English.
- (d) Each party understands and agrees that: (i) it has had adequate time and opportunity to review and understand each and every provision in this Agreement; and (ii) in the event of any controversy, dispute or disagreement over the meaning, interpretation, validity or enforceability of this Agreement, or any of its terms or conditions, there shall not be any inference, presumption or conclusion drawn whatsoever against either party by virtue of that party having drafted this Agreement or any portion thereof.
- (e) In case any one or more of the provisions contained in this Agreement is held to be invalid, illegal or unenforceable in any respect and for any reason, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the court, arbitrators or other tribunal making such determination is authorized and instructed to modify this Agreement so as to effect the original intent of the parties as closely as possible so that the transactions and agreements contemplated herein are consummated as originally contemplated to the fullest extent possible.

16. **GENERAL PROVISIONS:**

- (a) Except as expressly set forth in this Agreement, Buyer may not assign or transfer this Agreement or any rights or obligations hereunder without Seller's prior written consent.
- (b) No claim or action of any kind or form related to this Agreement may be brought by Buyer if: (i) the cause for the claim or action occurred more than two (2) years before initiating the claim or action; and/or (ii) if it has been more than five (5) years since the date of Buyer's procurement of the Goods that are the basis of the claim or cause of action.
- (c) Seller shall not be liable for any delays in performance or for any non-performance due to any circumstances that are beyond its reasonable control, including without limitation, those related to: (i) acts of God; (ii) war, terrorism, riots or fire; (iii) changes in applicable law; (iv) accidents; (v) labor troubles; or (vi) unavailability of materials or components.
- (d) Buyer agrees to comply with all applicable U.S., Singapore and other foreign laws, regulations, orders and requirements related to the Goods and Buyer's performance under this Agreement, including without limitation, all laws and regulations governing the export, re-export and import of the Goods.
- (e) Except to the extent otherwise required by applicable law, Seller shall have no responsibility for the collection, treatment, recovery or disposal of the Goods or any part thereof when they are deemed by law to be 'waste'; provided, however, that if Seller is required by applicable law to dispose of Goods or any part thereof deemed to be waste, then Buyer shall, unless prohibited by applicable law, pay Seller, in addition to the price paid for the Goods, either: (i) Seller's standard charge for disposing such Goods; or (ii) if no such standard charge exists, Seller's quoted price for disposing such Goods taking into consideration the costs incurred by Seller related thereto, including without limitation, costs related to handling, transporting and disposing such Goods.
- (f) Buyer may not copy, reverse engineer, decompile, disassemble or modify any Goods or any parts thereof unless and only to the extent stated by Seller in writing and/or otherwise required to be permitted by a Separate Software License or applicable law.
- (g) The Goods, including in the form of Software, and including any documentation related thereto, are commercial items developed entirely at private expense. If Software is being licensed to any governmental agency, such Software is provided with RESTRICTED RIGHTS as set forth in the applicable government agency clauses. Use, duplication or disclosure of the Goods or any parts thereof by any government agency or other government entity is subject to the restrictions set forth in said clauses and subject to the Software license set forth in this Agreement, and said clauses and license shall prescribe exclusively the use and disclosure of the Software and any Goods documentation by any such government agency or entity.
- (h) No failure by Seller to enforce any provision of this Agreement shall in any way be construed as a waiver of any such provision, or prevent Seller thereafter from enforcing such provision and each and every other provision of this Agreement.

Note: If using a paper copy, the user must ensure that the revision level of the document is current.

- (i) Seller is an Equal Opportunity Employer and hereby provides notice of its compliance with the following United States Code of Federal Regulations (CFR), which are hereby incorporated by reference: 41 CFR 60-1.4; 41 CFR 60-250.5; and 41 CFR 60-741.5.
- (j) This Agreement constitutes the entire agreement between Seller and Buyer with respect to the subject matter hereof and supersedes all prior understandings, agreements or representations of any kind between the parties, written or oral, express or implied, and there are no understandings, agreements or representations of any kind that are not specified in this Agreement.
- (k) The terms and conditions in this Agreement may not be modified unless agreed to by both parties in writing.

Revision History:

Rev	Date	Description
A	04/18	Supersedes QF72_002 (Rev J, 03/2016). Assigned new PN 8026648. Reviewed for compliance to ISO 9001:2015.
B	05/19	In addition to rewording and adding some additional provisions, removed references to Laser Design, Inc. as it was merged into CyberOptics Corporation.