



Standard Terms and Conditions of Sale

1. LIMITS OF AGREEMENT.

The terms and conditions as set forth herein, as well as any additional terms and conditions that may appear on the face hereof, shall constitute the entire agreement between Sheaumann Laser, Inc. ("Seller") and Buyer. Seller will not be bound by any terms of Buyer's order that are inconsistent with the terms herein. Acceptance by Buyer of these terms may be made either (a) by written acceptance or (b) by receipt by Buyer of delivery of any products described on the face of this Form ("Products"). The Agreement shall not be modified except in writing, signed by the parties hereto. No waiver by Seller of any default or provision hereof shall be deemed a waiver of any subsequent default or provision.

2. PRODUCTS AND PRICING.

- (a) Unless otherwise provided on the front of this form, Products furnished hereunder shall be newly manufactured products but may contain components which have been previously used in other product units. Any such previously used components have been disassembled, reprocessed, and reassembled, as appropriate, and meet or exceed the Seller's specifications for newly manufactured components.
- (b) The price of all Products unless otherwise specifically stated on the face hereof is F.O.B. carrier, at the place of manufacture or warehouse location, which is the address set forth on the face hereof, excluding insurance cost. The cost of packaging for normal domestic shipment is included in the invoiced price. Where special domestic or export packaging is specified, involving greater expense, a charge will be made to cover such extra expense.
- (c) Prices and orders do not include Federal, State or local excise, sales, use or other taxes now or hereinafter enacted, which are applicable to the Products sold hereunder or this transaction (excluding only taxes based on Seller's income), which tax or taxes will be added by Seller to the sales price when Seller has the legal obligation to collect the same and will be invoiced to and paid by Buyer, unless Buyer provides Seller with a proper tax exemption certificate. In the event Seller is required to pay any such tax, fee, or charge at the time of sale or thereafter, the Buyer shall reimburse Seller, therefore. Buyer assumes all responsibility in choosing the proper export harmonized code and sending it to Seller before shipment; Seller shall not be responsible for any fines or duties incurred by Buyer due to incorrect export harmonized codes.
- (d) Prices quoted are for the Products and services described on the face hereof only and do not include technical data, proprietary rights of any kind, patent rights, or any qualification or environmental tests (other than Seller's standard tests) unless expressly agreed to in writing by Seller.
- (e) Unless otherwise stated, all quotations are valid for sixty (60) days, and the minimum total price per order is \$500

3. PAYMENT TERMS.

(a) Unless otherwise stated, payment terms are Net 30 from the date of invoice. Seller reserves the right to require alternative payment terms or methods, including, but not limited to, sight draft, letter of credit, or advance payment. All payments shall be made to Seller at its principal office in 5 Federal Street, Billerica, Massachusetts 01821. Interest accrues on overdue invoices at the rate of one and one-half percent (1 1/2%) per month, but not more than the amount allowed by law, on the unpaid balance from the original due date of the invoice. (b) If Buyer fails to make advance payment when requested by Seller, or if Buyer is or becomes delinquent in the payment of any sum due Seller (whether or not arising out of this order), Seller shall have the right to cancel the order, in addition to any other remedy to which it may be entitled in law or equity. Partial shipments shall be invoiced after each shipment. (c) Seller reserves a purchase money security interest in the Products sold hereunder and the proceeds thereof, in the amount of the purchase price. In the event of default by Buyer on any of its obligations to Seller, Seller shall have the right to repossess the goods sold hereunder without liability to Buyer and/or UCC financing statement(s) with to secure the Seller's security interest in the Products furnished to the Buyer until payment in full has been made. In such event, Buyer agrees to make the Products available to Seller for repossession without a breach of the peace. This security interest shall be satisfied by payment in full. A copy of the invoice may be filed with appropriate authorities at any time as a financing statement and/or chattel mortgage to perfect Seller's security interest. Buyer shall cooperate fully with Seller to execute such other documents and to accomplish such filings and/or recordings thereof as Seller may deem necessary for the protection of Seller's interests in the Products furnished hereunder.

4. TRANSPORTATION AND RISK OF LOSS.

(a) Unless otherwise agreed to in writing by Seller, all transportation shall be at the expense of Buyer. Seller reserves the right to ship Products freight collect and to select the means of transportation and routing. Risk of loss or damage shall pass to Buyer upon delivery of the Products to the transportation company at the FCA point. (b) Confiscation or destruction of, or damage to Products shall not release, reduce or in any way affect the liability of Buyer, therefore. Notwithstanding any defect or nonconformity, or any other matter, such risk of loss shall remain with Buyer until Products are returned at Buyer's expense to such places as Seller may designate in writing. Buyer, at its expense, shall fully insure Products against all loss or damage until Seller has been paid in full therefor, or the Products have been returned, for whatever reason, to Seller.

5. DELIVERY.

(a) Delivery date(s) of the Products shall be stipulated in the order acknowledgement from Seller. Seller shall not assume any liability or expense, consequential or otherwise, due to a delay or failure to deliver all or part of any order for any reason, including its active or passive negligence. (b) Buyer may request to reschedule the delivery of the Products. Seller shall be under no obligation to grant such a request.

6. INSPECTION AND ACCEPTANCE.

Buyer shall have the right to inspect the Products upon delivery. Failure of the Buyer to provide written notice to Seller of any alleged defect or nonconformity within sixty (60) days after delivery shall constitute an irrevocable acceptance by Buyer of the delivered Products.

7. RETURNS.

Products may not be returned to Seller without Seller's consent. If return authorization is granted, Products to be returned must be securely packaged in original shipping fixtures containers, and any other product-specific packaging as delivered by Seller. Seller reserves the right to replace, or credit returned Products which have manufacturing defects or do not meet specifications. Seller shall not be obligated to repair, replace, or credit any returned Products deemed to have been damaged by Buyer due to mishandling, operation beyond product specifications, or other negligent behavior.

8. TERMINATION.

Any order for a **standard Product** accepted by Seller and terminated by Buyer prior to shipment, after a one-week grace period, shall be subject to a termination charge of ten percent (10%) of the order value to cover cost of processing and handling. Termination thereof within thirty (30) days before shipment shall be subject to a termination charge of not less than twenty-five percent (25%) of the order value; thereafter no such order may be terminated except by mutual agreement in writing. No order for a **nonstandard/custom Product** may be terminated by Buyer except by mutual agreement in writing, subject to the following conditions:

(a) Buyer shall pay, at applicable contract prices, for all Products which are completely manufactured and allocable to Buyer at the time of Seller's receipt of notice of termination;

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- (b) Buyer shall pay all costs, direct and indirect, which have been incurred by Seller with regard to Products which have not been completely manufactured at the time of Seller's receipt of notice of termination;
- (c) Buyer shall pay a termination charge on all other Products affected by the termination. Seller's normal accounting practices shall be used to determine costs and other charges. To reduce termination charges, Seller shall divert completed parts, material, or work-in-progress from terminated contracts to other customers whenever, in the Seller's sole discretion, it is practicable to do so. In the event of a termination, Buyer shall have no rights to partially completed goods.

9. LIMITED WARRANTY—LIMITATION OF REMEDIES.

- (a) Due to the extremely delicate nature of optoelectronics, Seller warrants the Products:
- (1) To be free from defects in material and workmanship for a period of time and under such conditions as specified in Seller's warranty for the individual Product, or for twelve (12) months from shipment if a warranty for an individual Product is not specified, and (2) to perform in the manner and under the conditions as specified in Seller's warranty for the individual Product or for twelve (12) months from shipment if a warranty for an individual product is not specified. The Seller shall provide no warranty for: (1) unmounted chips, with the exception of obvious defects, or (2) overall performance of products after bonding or wafer processing services.
- (b) No representative or person is authorized to bind Seller for any obligations or liabilities beyond the warranty in connection with the sale of Seller's goods. This warranty is made to the original purchaser only at the original location, is nontransferable, and may only be modified or amended by a written agreement signed by Seller or by an authorized representative. Major sub-systems manufactured by other firms but integrated into Seller's system are covered by the original manufacturer's warranty and Seller makes no warranty, expressed or implied, regarding such sub-systems. Products which are replaced or repaired under this warranty are warranted only for the remaining unexpired portion of the original warranty period applicable to the specific product.
- (c) Remedies are available only if Seller is notified in writing by Buyer promptly upon discovery of the defect, within the warranty period for the individual Product, and Seller's examination of such goods discloses to Seller's satisfaction that such defects actually exist prior to the delivery of the Product and the goods have not been (i) repaired, worked on, or altered by persons not authorized by Seller, or (ii) subject to misuse, negligence or accident; or (iii) connected, installed, used or adjusted otherwise than in accordance with the instructions furnished by Seller including being installed in sub-systems not compatible with the Seller's product. or (iv) injured in such a way that affects the stability, reliability, or proper operation of the Product
- (d) All Products which Buyer considers defective shall be returned to Seller's office with transportation costs prepaid and borne by Buyer, unless there is a written agreement signed by Seller or an authorized representative that states otherwise. The risk of loss of the goods shipped or delivered to Seller's plant for repair or replacement will be borne by Buyer.
- (e) If it is found that any Product has been returned without cause and is still serviceable, Buyer will be notified, and the Product returned at Buyer's expense. In addition, a charge for testing and examination may, in Seller's sole discretion, be made on Products so returned.
- (f) The foregoing warranty is exclusive and in lieu of all other warranties (except for specific written Product performance guarantees) whether written, oral or implied, including any Warranty of merchantability or fitness for a particular purpose, and shall be the Buyer's sole Remedy and Seller's sole liability on contract or warranty or otherwise for the Product. The Seller shall not be liable to the Buyer for any consequential, special, or punitive damages, loss profits or lost business opportunities arising of or in connection with this Agreement.
- (g) This warranty does not cover damage or defect caused by misuse, improper application, wrong or inadequate electrical current or connection, negligence, inappropriate on site operating conditions, corrosive atmosphere, failure to adequately maintain the Product using a qualified Service provider, repair by non-Seller designated personnel, accident in transmit, tampering, alterations, a change in location or operating use, exposure to the elements, Acts of God, theft or installation contrary to Seller's recommendations or specifications. Repair or replacement of a defective product or part thereof does not extend the original warranty period.
- (h) Buyer's sole and exclusive remedy is repair or replacement of the Product as set forth herein.
- (i) If Buyer's remedy is deemed to fail of its essential purpose by a court of competent jurisdiction, Seller's responsibility for property loss or damage shall not exceed the net product purchase price.

10. SELLER'S RIGHTS TO SUBCONTRACT.

Seller may subcontract any portion of the work on any item subject to this Agreement, but Seller's obligations and rights hereunder shall not thereby be limited or affected.

11. INDEMNIFICATION.

Buyer shall indemnify and hold harmless the Seller, its agent, and employees from and against all claims, damages, losses, and expenses, including but not limited to fees, judgments, attorney's fees and cost, property damage, personal injury arising out of or resulting from, in whole or in part the negligent act or omission, deviation from use of the Product other than its intended use, breach of applicable safety standards, codes, ordinances or breach of this agreement.

12. NOTICE.

All notices and other communications authorized or required hereunder shall be in writing and shall be given by mailing certified via certified or registered mail return receipt requested or nationally recognized overnight carrier, postage prepaid. If given to the Seller, sending the same to 5 Federal Street, Billerica, MA 01821. If given to the Buyer, sending the same to:

13. FORCE MAJEURE.

In any case where either party hereto is required to do any act other than the payment of money, delays caused by or resulting from an Act(s) or God, pandemic, war, civil commotion, government emergency imposed restrictions, fire, other casualty, labor difficulties, shortages, labor, material or equipment, government regulations or other causes beyond such party's control shall not be counted in determining the time during which such work shall be completed, whether such time be designated by a fixed or "as reasonable time". In order to obtain a delay of performance other than the payment of money, the party invoking Force Majeure shall send written notice to the other within a reasonable time after the invoking party knew that such performance would be delayed or prevented by Force Majeure.

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14.ASSIGNMENT.

Buyer shall not assign any interest in whole or in part of this Agreement without the Seller prior written consent.

15. VENUE AND JURISDICTION.

This instrument shall be construed in accordance with the laws of the Commonwealth of Massachusetts and Buyer and Seller which irrevocably submit to the jurisdiction of Massachusetts state courts or federal courts sitting in Massachusetts for any claims or causes of action brought by either party to enforce its rights under this Agreement.

If either party hereto be made or becomes a party to any litigation commenced by or against the other party involving the enforcement of any of the rights and remedies of such party or arising on account of the default of the other party in the performance of such party's obligations hereunder, then the prevailing party in any such litigation, shall receive from the other party all costs and reasonable attorneys' fees incurred by such party in such litigation.

16. MISCELLANEOUS.

No salesperson, employee or agent of Seller is authorized to add to or vary the terms of this warranty. Warranty terms may be modified, if at all, only by a writing signed by an authorized Officer of the Seller.

In the event that any provision of this Warranty should be or becomes invalid and/or unenforceable during the warranty period, the remaining terms and provisions shall continue in full force and effect.

17.SEVERABILITY.

If any provision of this Agreement will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provisions will be deemed to be written, construed, and enforced as so limited.

18.AMENDMENT.

This Agreement may not be modified or amended unless in writing and signed by an authorized Officer of the Seller.

19.ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties, and there are no other promises or conditions in any other agreement whether oral or written concerning the subject matter of this Agreement. This Agreement supersedes any prior written or oral agreements between parties.

Acknowledge and Agreed this _____, of _____, 202__

Sheaumann Laser, Inc.

Buyer:

By:

Its:

Its: