



SOLE SOURCE CERTIFICATE AND POSTING NOTICE

(Greater than \$150,000)

A sole source procurement is when you make a request to purchase product(s) and/or service(s) without competition when competition is otherwise required. This means that product/service is unique and that the supplier is the only supplier that can provide the product or service. In accordance with the authority granted under applicable Florida law and UCF Regulation 7.130, the following documentation is submitted in support of this request.

This form and related documentation shall be submitted through Workday Help using case type Waivers and Sole Source. Please do not attach to a requisition or send via email for review and approval.

WD case subject title should have common structure for easy tracking, to include:

- Exemption type (Sole Source)
- Supplier name
- Purchase amount

The completed sole source must be approved in the following order. **Please be sure to obtain all required signatures before submitting the form to Procurement Services.**

- PI/Researcher/Director/Chair
- President/Vice President/Dean
- Procurement Specialist
- Procurement Services Manager or Associate Director
- Assistant Vice President for Tax, Payables & Procurement, who will review and provide a recommendation to approve or disapprove the sole source to:
- Chief Financial Officer, who will either directly approve or disapprove the sole source, or forward it to the Provost and Executive Vice President for goods/services related to academia for input prior to making the final decision.

Once the completed sole source is received, Procurement Services in collaboration with kNEXT reviews the documentation provided and determines whether the sole source is valid or if there are additional suppliers that may be able to provide the requested product or service. The sole source review and approval process varies based on the nature of the product/service being requested and the information provided in the requestor's justification, among other factors, so please keep this in mind when submitting the form.

Contingent upon the approval of all the officers/individuals listed, the sole source shall be posted on the UCF Procurement Services website for seventy-two (72) hours. Upon expiration of said posting period, Procurement Services will process a purchase order upon receipt of the requisition.

The usual bidding process shall be conducted if sole source approval is not granted.

PART I: DEPARTMENT AND SUPPLIER INFORMATION

Department Name: CREOL Contact & Phone: M. Heeke 4078236802
Product/Service Cost: _____
__ One Time Purchase __ Term Contract: _____
__ Multiple Purchases __ Duration: _____

Company Name: M3 Measurements Solutions Inc Email: estover@m3msi.com
Contact Person: Erik Stover Title: _____
Product and/or Service: MWave MWIR Interferometer

PART II: SOLE SOURCE JUSTIFICATION (see pages 4-5)

Only justifications submitted on this form and in the below format will be reviewed for approval. All the listed points MUST be fully answered on the following pages and any additional attached pages as needed. Failure to submit justification as outlined in the format below will result in the form being returned without review.

PART III: SOLE SOURCE CERTIFICATIONS

- A. In my professional opinion, this is the only product or service that can reasonably meet my requirement(s)/specification(s), and this is the only supplier who can provide the product or service. I further certify that the information contained herein is true and correct to the best of my knowledge and belief and would withstand any audit or supplier protest.
- B. I, the undersigned, certify that I and/or the user do not have a financial interest in the above named supplier or contractor, and that I am unaware of any conflict of interest related to this purchase.

Signature _____ **Printed Name and Title (PI/Researcher/Director/Chair)** _____ **Date** _____
David J Hagan Digitally signed by David J Hagan
Date: 2024.10.30 11:31:33 -0400 **David J Hagan, Dean** **10/30/24**

Signature _____ **Printed Name and Title (President/Vice President/Dean)** _____ **Date** _____
(Delegations not allowed; emails from absent approvers are acceptable)

I, the undersigned, hereby concur with the above justification and support a sole source approval for the above product(s) and/or service(s). Approvals may be documented and supported via email.

See below email for approval

Signature _____ **Printed Name and Title (Procurement Specialist)** _____ **Date** _____

See below email for approval

Signature _____ **Printed Name and Title (Procurement Services Manager or Associate Director)** _____ **Date** _____

See below email for approval

Signature _____ **Printed Name and Title (Asst. Vice President for Tax, Payables & Procurement)** _____ **Date** _____

See below email for approval

Signature

Printed Name and Title (Chief Financial Officer)

Date

POSTING NOTICE

11/26/2024 11:00am
Date/Time Posted

12/04/2024 11:00am
Posting End Date

2502
UCF Control No.

Trinh Nguyen
Procurement Specialist

SOLE SOURCE JUSTIFICATION

Please answer the questions below and attach additional documentation if needed.

1. Describe the product(s) and/or service(s) and anticipated use thereof in layman's language.

This product is a Twyman-Green interferometer that works in the mid-wave infrared at 3.39 microns. It will analyze glass and ceramic samples at these wavelengths as part of the quality assurance measurements performed at the Optical Materials Lab at the University of Central Florida.

2. Describe the required specifications or requirements and why are they essential to the accomplishment of your work.

This instrument will allow the user to measure the optical homogeneity of glasses to ISO standards. This is important because it determines if the glass or ceramic can be integrated into an optical system. Homogeneity is a crucial metric to consider when scaling glass manufacturing for industry. So, it is important to demonstrate high-homogeneity materials early in the development process to speed up industrial adoption.

Provide the names of other suppliers, products and/or services that you have investigated and explain why they do not meet the required specifications or requirements. It may be helpful to present your information in a table like the one below.

Required Specifications	Supplier 1	Supplier 2	Supplier 3	Supplier 4
	Y/N	Y/N	Y/N	Y/N
	Y/N	Y/N	Y/N	Y/N
	Y/N	Y/N	Y/N	Y/N
	Y/N	Y/N	Y/N	Y/N

3. State in detail why only this and no other product(s)/service(s) will satisfy the department's requirements. Description may include unique features, compatibility, specifications, availability, delivery time frame etc. (For example, please list the features or special conditions that are unique and only available from one supplier. Note: Price is not a valid reason.)

The system sold by M3 Measurement Systems is unique in the industry as it is a laser unequal path design. This makes it compatible with the ISO standard for measuring optical homogeneity. This design means that there are two separate beam paths allowing the user to put in a test plate without changing the alignment. This can make optical homogeneity measurements easier. This unit has a much larger beam diameter which would allow us to test entire boules all at once. This is an improvement over the small beam diameter of the 4D PhaseCam. This is a substantial difference from competing systems such as Zygo's which uses a Fizeau design with a single beam path. This system operates as a stand-alone system that requires no further modification to perform these measurements. Furthermore, M3 provides a shorter lead time than its main domestic competitor. They can provide a system in 6 weeks while their competitor will provide one in 30 weeks. No, these systems are not resold or distributed widely.

4. Are there resellers or distributors? If yes, please list names and contact information.

None

5. Will this purchase obligate UCF to this vendor for future purchases such as maintenance, licensing, or continuing need? Yes No

If yes, please provide details regarding future obligations and/or needs to include number of years and total spending amount of obligations:

No there is no future maintenance contract to go with this system.

6. What efforts have been made to obtain the best pricing available? Please provide an explanation to support the belief that the price is fair and reasonable.

We have negotiated the price by asking to buy a demonstration unit and have been offered a discount as a university buyer. The price overall has been reduced by 38% from the initial quoted price.

This product is a Twyman-Green interferometer that works in the mid-wave infrared at 3.39 microns. It will analyze glass and ceramic samples at these wavelengths as part of the quality assurance measurements performed at the Optical Materials Lab at the University of Central Florida.

This instrument will allow the user to measure the optical homogeneity of glasses to ISO standards. This is important because it determines if the glass or ceramic can be integrated into an optical system. Homogeneity is a crucial metric to consider when scaling glass manufacturing for industry. So, it is important to demonstrate high-homogeneity materials early in the development process to speed up industrial adoption.

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No there is no future maintenance contract to go with this system.

We have negotiated the price by asking to buy a demonstration unit and have been offered a discount as a university buyer. The price overall has been reduced by 38% from the initial quoted price.

Specifications	M3	4D PhaseCam	Zygo Verfire 3.39
Design	Laser Unequal Path(dual beam)	Twyman Green(dual beam)	Fizeau(single beam)
Wavelength	3.39	3.39	3.39
Aperture Diameter	101.6 mm	14mm	150mm
Do you have to pay for a propriety software licenses	No	Yes	Yes
ISO Phom Test Capable	Yes	Yes	No
Detector Resolution	640x512	640x512	640x512
Precision	0.001λ	0.001λ	0.001λ

From: [Gerald Hector](#)
To: [Joel Levenson](#)
Cc: [Brian Sargent](#); [Trinh Nguyen](#); [Nellie Nido](#)
Subject: RE: C0105720:Sole Source Request - M3 Measurement Solutions
Date: Friday, November 22, 2024 4:52:36 PM
Attachments: [image003.png](#)

Joel:

I am supportive of this sole source purchase.

Regards,

Gerald L. Hector, CPA
Senior Vice President
Administration and Finance
University of Central Florida
4635 Andromeda Loop N
MH384
Orlando, FL 32816
Tel: (407) 823-1063
Email: gerald.hector@ucf.edu



From: Joel Levenson <Joel.Levenson@ucf.edu>
Sent: Thursday, November 21, 2024 4:31 PM
To: Gerald Hector <Gerald.Hector@ucf.edu>
Cc: Brian Sargent <Brian.Sargent@ucf.edu>; Trinh Nguyen <Trinh.Nguyen@ucf.edu>; Nellie Nido <nellie.nido@ucf.edu>
Subject: FW: C0105720:Sole Source Request - M3 Measurement Solutions

Good afternoon Gerald,

I support this sole source as well. Based on the specifications needed for the research, this unit seems to be the only one to meet the department's needs. Specifications aligned with potential suppliers are provided below.

If you approve of this sole source, reply all and indicate as such. If you have additional questions, let me know.

Thank you,

From: Brian Sargent <Brian.Sargent@ucf.edu>
Sent: Wednesday, November 20, 2024 10:12 AM
To: Joel Levenson <Joel.Levenson@ucf.edu>
Cc: Trinh Nguyen <Trinh.Nguyen@ucf.edu>; Nellie Nido <nellie.nido@ucf.edu>
Subject: FW: C0105720:Sole Source Request - M3 Measurement Solutions

Good morning Joel,

I also support this sole source for an interferometer supplied by M3 Measurement Solutions. CREOL did research to identify other sources and received proposals (attached). The interferometer from M3 is the only product that meets all their research requirements listed in the chart below. Although cost is not a factor in determining sole source, the M3 product is the least expensive of the known suppliers.

M3 - \$200,000
4D - \$399,450
ZYGO - \$528,876

Trinh sent her write up on 11/9 but we have been working with the end user to determine if this unit would qualify for the "used equipment" exemption since it's a demo, but it doesn't appear this meets the intention of that exemption as the unit was not previously owned by another entity.

Please let me know if you approve/disapprove and if you have any questions.

Regards,
-Brian

From: Trinh Nguyen <Trinh.Nguyen@ucf.edu>
Sent: Friday, November 8, 2024 2:23 PM
To: Brian Sargent <Brian.Sargent@ucf.edu>
Subject: C0105720:Sole Source Request - M3 Measurement Solutions

Hi Brian,

I have reviewed the attached sole source and can support it with the following reasons. I do have a question; in reviewing, they mentioned that the M3 system is a demo unit offered at a discount. Would that be considered a used equipment? If so, the used equipment exemption can apply. Can you please also review to see if you agree or not.

Vendor: M³ Measurement Solutions
Product: MWave MWIR Interferometer
Total Amount: \$200,000
Dept: CREOL

Requirement: The department wants to purchase a Mid-wave infrared interferometer to allow measurements of optical homogeneity of glasses to ISO standards. The required specifications are listed below.

Research Conducted: The department listed three suppliers that can provide similar interferometer that works in the mid-wave infrared at 3.39 microns and confirmed that to the best of their knowledge, these suppliers are the only ones in the market that can provide the equipment needed and concluded that the M3 system is the only one that can meet all their requirements.

Specification	M3	4D PhaseCam	Zygo Verfire 3.39
Does the system operate in the MWIR at 3.39 microns	Yes 3.39	Yes 3.39	Yes 3.39
Open-Source Analysis software	Yes	No	No
Aperture diameter of 101 mm or more	Yes 101.6mm	No 14mm	Yes 150mm
Can instrument perform ISO Phom Test in default configuration without modification	Yes	Yes	No
Design: Does the system allow for comparison between two beam paths	Yes Dual Beam	Yes Dual Beam	No Single Beam
Does the detector have enough pixels to identify defects in glass	Yes 640x512 Precision: 0.001λ	Yes 640x512 Precision: 0.001λ	Yes 640x512 Precision: 0.001λ

There are no distributors or resellers for the M3 system. It's being purchased directly from the manufacturer.

Price is fair and reasonable: The price is deemed fair and reasonable given that the M3 system meets all the requirements while the other two systems cannot. It was noted that the department negotiated the price for a demonstration unit that was offered with a 38% discount from the initial quoted price of \$320,000

GovSpend: No results found for the supplier.

The screenshot shows a search interface with the following elements:

- SEARCH** button with a dropdown menu set to "Companies".
- Buttons: Reset All, Save Search, Export, Share Search, Load Search.
- Search input field containing "M3 Measurement Solutions (0)".
- RESULTS** section with filters: Purchases (No Results), Agencies (No Results), Agency Contacts, Companies (No Results), Analytics (\$0).
- Filter input field.
- Table headers: Company Name, Total Sales (Approx.), Total Items Sold (Approx.).
- Size: 100 dropdown menu.

Thanks,
Trinh

From: CREOL Purchasing <creol-purchasing@creol.ucf.edu>
Sent: Wednesday, October 30, 2024 7:30 AM
To: Trinh Nguyen <Trinh.Nguyen@ucf.edu>; Michael Heeke <mike.heeke@creol.ucf.edu>
CC: CREOL Purchasing <creol-purchasing@creol.ucf.edu>; Mark Wagenhauser <markw@creol.ucf.edu>
Subject: RE: Sole Source Question

Hello Trinh,

They have provided a new write up that is hopefully clearer – does this clarify/strengthen their argument? They did confirm that Zygo, 4D, and M3 are the only domestic suppliers of this type of equipment.

Thanks,
Mike



M³ Measurement Solutions Inc.

UCF

***M³ Measurement Solutions Inc. Proposal
0637B
July 31, 2024***

Prepared for:

Kathleen Richardson

EIN: 34-204-1542

DUNS: 603096483

M³ Measurement Solutions Inc.
938 S Andreasen Drive, Ste I
Escondido, CA 92029
www.m3msi.com



M³ Measurement Solutions Inc.

Price/Delivery

<u>Item</u>	<u>Description</u>	<u>Price</u>
1.	M-WAVE 3.39um Interferometer	\$285,000 USD
2.	Beam Expander 1" to 4"	\$25,000 USD
3.	Training/Installation/Shipping	\$10,000 USD
		Total: \$320,000 USD

Demo unit available for %38 Discount.

Total w/ Discount: \$200,000

***Prices do not include federal or state tax**

60% Deposit due upon order placement

40% Net 30 due upon shipment

This quote is valid 90 days from date issued

***Includes 1 year warranty for all parts and labor**

EIN: 34-204-1542

DUNS: 603096483

M³ Measurement Solutions Inc.
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Escondido, CA 92029
www.m3msi.com



M³ Measurement Solutions Inc.

Base Instrument Technical Specifications

<u>Specification</u>	<u>Design Value</u>
*Accuracy (Uncalibrated)	0.01 λ RMS Wavefront Error @ 3.39 μ m
*Accuracy (Calibrated)	0.004 λ RMS Wavefront Error @ 3.39 μ m
*Repeatability	0.001 λ RMS Wavefront Error @ 3.39 μ m
Base Instrument Aperture	25.4 mm Diameter
Beam expander Aperture	101.6 mm Diameter
Camera Resolution	640 x 512 Pixels
Digitization	14 Bit
Acquisition Mode	Phase Shifting
Zoom Lens	1X to 6X.
<u>Laser Specifications:</u>	
Laser Type	HeNe
Wavelength	3.39 μ m
Output Power \geq	2 mW
Beam Polarization	Linear
<u>Mainframe:</u>	
Envelope Dimensions (LWH)	827mm x 553mm x 317mm
System Optical Axis Height	115mm
Electrical Requirements	120 VAC, 60 Hz
Laser Safety	CDRH Class IIIb Laser Product IEC Class 3B
Weight	145 lbs (Mainframe)
<u>Software:</u>	
Analysis Software	Apri Reveal

- * 1) Vibration free environment with temp. change < 1°C/15 min. between 20-23°C, no thermals
2) 3 sigma of the rms for 128 data sets, each an average of 32 measurements
3) These parameters state conditions which the system can operate; they do not represent the environmental stability required to meet performance.

EIN: 34-204-1542
DUNS: 603096483

M³ Measurement Solutions Inc.
938 S Andreasen Drive, Ste I
Escondido, CA 92029
www.m3msi.com



M³ Measurement Solutions Inc.

Acceptance criteria for buyoff-

- 1. Brochure specifications of accuracy and repeatability will be tested using a calibration reflectance flat with the nominal 1" collimated output aperture of the instrument.**
- 2. Align/View mode, Zoom and Variable intensity will be demonstrated for functionality.**
- 3. Measured results (interferograms) will be provided as documentation along with a signed certificate of compliance**

Installation and Training-

Includes: 2-day visit. One day each for Installation and Training.

Customer is to provide access to use a vibration isolation table and area suitable for interferometry where the instrument will be

- Basic operation of the instrument**
- Overview of software and main features**
- Overview of applications and accessories**
- Testing of customer parts as expected to be used on-site (to be discussed before visit, in case need of special configuration)**

EIN: 34-204-1542

DUNS: 603096483

M³ Measurement Solutions Inc.
938 S Andreasen Drive, Ste I
Escondido, CA 92029
www.m3msi.com



M³ Measurement Solutions Inc.

***WARRANTY.** M3 MEASUREMENT SOLUTIONS warrants that the Goods, at Delivery and for 365 days (Warranty Period), will conform to published specifications and be free from defects in materials, unless another Warranty Period is stated on the Front of the Acknowledgement. Buyer shall report any claimed defect in writing to M3 MEASUREMENT SOLUTIONS promptly upon discovery and within the Warranty Period. M3 MEASUREMENT SOLUTIONS shall elect either to repair or replace nonconforming Goods (The Remedy).

This warranty does not extend to: (a) Goods repaired or modified in any manner by persons other than M3 MEASUREMENT SOLUTIONS or M3 MEASUREMENT SOLUTIONS's authorized designee; and (b) Goods that are defective due either to normal wear and tear, or Buyer's failure to properly store, install, operate or maintain the Goods. The Remedy is M3 MEASUREMENT SOLUTIONS's sole obligation, and Buyer's exclusive recourse, for all claims of defects with respect to the Goods.

If the Remedy is adjudicated insufficient, however, M3 MEASUREMENT SOLUTIONS shall refund the Price paid without further liability to Buyer relating to the subject Goods. Buyer shall pay costs of returning Goods under a warranty claim, and M3 MEASUREMENT SOLUTIONS shall pay the costs of sending Goods to Buyer after the Remedy is performed.

EXPORT LAWS. The Goods may be subject to U.S. Government export laws and regulations. Buyer shall not export, re-export, or transfer the Goods or Confidential Information received from M3 measurement Solutions without first obtaining the appropriate US Government approvals, if any. M3 measurement Solutions will cooperate with Buyer to obtain any export licenses Buyer seeks, but obtaining such licensing shall be the exclusive responsibility of Buyer and M3 measurement Solutions makes no representation or warranty regarding the issuance of export licenses for the Goods.

EIN: 34-204-1542

DUNS: 603096483

M³ Measurement Solutions Inc.
938 S Andreasen Drive, Ste I
Escondido, CA 92029
www.m3msi.com



Corporate Office:
 Laurel Brook Road
 Middlefield, CT, 06455
 Phone 860 347 8506

Local contact info:
 Jeff Shipley
 jeff.shipley@ametech.com
 +1 4074920485

Zygo Corporation Quotation

Company:	CREOL / University of Central Florida - Orlando	Quote Date	September 19, 2024
Prepared For:	Andrew Howe CREOL, Optical Materials Lab andrew.howe@ucf.edu (520) 429-7761	Quote #	Q-07190
Bill To:	CREOL / University of Central Florida - Orlando College Of Optics: CREOL and FPCE, 4000 Central Florida Pkwy, Building # 53 Orlando, Florida 32816 United States	Sales Rep	Jeff Shipley
Ship To:	CREOL / University of Central Florida - Orlando College Of Optics: CREOL and FPCE, 4000 Central Florida Pkwy, Building # 53 Orlando, Florida 32816 United States	Expiration Date	November 18, 2024
		Payment Terms	40% DP/60% Net 30
		Incoterm	FCA Factory
		Partial Shipments	Partial Order- Allowed
		Shipment Method	Instruct on P.O.
		Lead Time	30 weeks ARO
		Currency	USD

Item	Qty	Part Number	Description	Unit Price	Extended Price
1	1	6507-0886-01	ZYGO 6-inch aperture 3.39 micron VeriFire Interferometer Fizeau interferometric mechanical phase measuring system Actively stabilized, integrated 3.39 micron HeNe laser 6-inch beam diameter, nominally circularly polarized 2 position, discrete motorized zoom with 1X and 2X magnifications, plus full range digital zoom in software QFAS alignment system operating at 3.39 um Encoded focus; wired remote 640 X 512 Mid-IR InSb camera, with Stirling cycle pump cooler 6-inch Phase Modulating Receptacle (PMR) and tip/tilt mount ** Mx running in Windows 11 64-bit, with QPSI ** Core i7 4.9 GHz XE4 System Controller 32 GB DDR5 Non-ECC memory 1 TB SSD M.2 PCIe NVMe Hard Drive; RAID optional Integrated Graphics; USB keyboard & optical mouse P2725H 27" IPS FHD LED Monitor, 100 Hz Win 11 IoT Ent LTSC 2024	472,755.00	472,755.00

Item	Qty	Part Number	Description	Unit Price	Extended Price
2	1	6500-0149-01	Interferometer Power Kit (120 VAC) US / 120 VAC power	5.00	5.00
3	1	6507-0435-02	6-inch Transmission Flat (ZnS) for use at 3.39 microns Flatness: 1/20 wave PVr at 3.39 um Uncoated reference surface (approx. 17% reflectance); 2nd surface is AR coated for 3.39 um Uses standard bayonet-type mounting	31,071.00	31,071.00
4	1	6024-0323-01	6-inch Attenuation Filter Pellicle-type attenuation filter; includes mount/stand	8,432.00	8,432.00
5	1	6024-0311-11	6-inch High Reflectivity Reference Flat Flatness: 1/20 wave PVr at 633 nm Mirror-coated for approx. 90% reflectivity	8,821.00	8,821.00
6	1	6500-0106-53	6-inch 2-axis Adjustable Mount 6" bayonet interface Tip and tilt adjustment, free standing	4,792.00	4,792.00
7	1	COMM	COMMISSIONING/INSTALLATION On-Site Installation and Certification Service engineer will install system after arrival. Cost covers all travel and airfare charges, labor, cert.	3,000.00	3,000.00
Total for Requested Items					528,876.00 USD

Send Purchase Order to ct-mid.edi@ametek.com and jeff.shipley@ametek.com

Please contact me if I can be of further assistance.

Responsible for the validity:



Jeff Shipley
Senior Account Manager

1. Prices are in US dollars and are valid for quotation period only - Prices are based upon total purchase.
2. Unless specified, shipping is EXW Middlefield, CT
3. Payment terms are subject to credit approval.
4. Generally, all hardware is covered by a LIMITED ONE YEAR WARRANTY, covering PARTS AND LABOR on a depot basis.
5. Please review Zygo's detailed TERMS and CONDITIONS of sale.
6. Unless otherwise noted all prices contained within this quotation are in U.S. dollars.
7. Lead Time does not include time for shipment

The information provided in this document is the property of Zygo Corporation and may not be disclosed to a third party without ZYGO's prior written consent. Any reproduction is prohibited without expressed written permission from Zygo.

Zygo Corporation TERMS AND CONDITIONS OF SALE

IN THE ABSENCE OF A SEPARATE, DULY EXECUTED PURCHASE OR SIMILAR AGREEMENT BETWEEN AMETEK AND CUSTOMER, CUSTOMER'S PURCHASE OF AN AMETEK PRODUCT AND/OR SERVICE HEREUNDER REPRESENTS ACCEPTANCE OF THE AMETEK TERMS AND CONDITIONS AVAILABLE AT [US Purchase Terms and Conditions](#). (SUBJECT TO CHANGE FROM TIME TO TIME), WHICH SUPERSEDE ANY PRIOR OR CONTEMPORANEOUS COMMUNICATIONS, REPRESENTATIONS, UNDERSTANDINGS OR AGREEMENTS BY EITHER PARTY, WHETHER VERBAL OR WRITTEN, CONCERNING THE SUBJECT MATTER HEREOF.

The AMETEK terms and conditions take precedence over Customer's additional or different terms and conditions, to which notice of objection is hereby given. Neither AMETEK's commencement of performance nor delivery shall be deemed or construed as acceptance of Customer's additional or different terms and conditions. No change or modification to the AMETEK terms and conditions shall be valid or binding unless in writing and signed by authorized representatives of both parties.

QUOTATION



4D TECHNOLOGY CORPORATION
3280 E HEMISPHERE LOOP SUITE 146
TUCSON ARIZONA 85706-5039 USA
Tel: (520) 294-5600
Fax: (520) 294-5601
www.4dtechnology.com

Quotation Number: RJM058-PCMWIR-240925

Date: Sept 25, 2024

Expires: Oct 25, 2024

University of Central Florida

4000 Central Florida Blvd,
Orlando, FL 32816

Andrew Howe

Tel: NA
E-mail: andrew.howe@ucf.edu

Delivery Time 12 wks ARO	Warranty 1 year limited	Payment Terms <u>NET30</u>	Shipping Terms <u>EXW:Tucson</u>	Salesperson RJ Mattern Robert.Mattern@ontoinnovation.com
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Part Number:	Item Description	QTY	Price (USD)
9001-00182	PhaseCam MWIR Dynamic Interferometer – 3.39µm Dynamic Mode (Vibration Immunity) 510 x 510 Detector, Dual-Port 14mm Aperture (Min Sampling 490 Pixels Over 14.0mm CA) Internal 3.39µm Source Table mounting kit, to mount to air tables	1	\$396,950.00
8001-00352	Desktop Computer: PhaseCam MWIR	1	\$0.00
7001-00191	Visible Alignment Laser @532nm, 5mW	1	\$2,500.00
			\$399,450.00

Pricing includes:

*WINDOWS 10 PC, 4D Analysis Software Suite, Installation, Calibration, and 2 Days of Onsite Training, (Orlando, FL)

*Please apply a one time only, Education Discount of 5% to line item #1 for UCF



4D TECHNOLOGY CORPORATION
3280 E HEMISPHERE LOOP
TUCSON ARIZONA 85706-5039 USA
Tel: (520) 294-5600
Fax: (520) 294-5601
www.4dtechnology.com

Quotation Number: RJM058-PCMWIR-240925

Sept 25, 2024

Expires: Oct 25, 2024

Onto Innovation

Standard Terms & Conditions of Sale for Equipment

1. Definitions

- “**Seller**” means Onto Innovation Inc.
- “**Buyer**” means the customer ordering/purchasing Product from Seller. The term “Buyer” includes the end user of the Product and any intermediate purchaser or agent provided, however, that Article 16 shall apply only to the actual end user.
- “**Embedded Software**” means the Programs as well as Seller’s proprietary computer software packages, programs and software code in any form including all permitted copies, updates and enhancements which is included in the Equipment.
- “**Equipment**” means the Seller’s equipment, materials, parts, and the license of any Embedded Software installed therein.
- “**Services**” means Seller’s installation, maintenance and/or repair services.
- “**Documentation**” means Seller’s user manuals, training material, programmer’s guides, system guides and materials related to the use of the Equipment and supplied in electronic, printed or other form, plus all changes, corrections, enhancements or updates subsequently made to such documents.
- “**Licensors**” means those third-party companies which have licensed software to Seller which is employed in the Equipment. A list of the Licensors is available from Seller upon request.
- “**Order**” means Buyer’s purchase order.
- “**Product**” means the Equipment, Services and Documentation.
- “**Programs**” means any software which embeds programs of a Licensor or other software supplier in the Equipment, each pursuant to an agreement between Seller and the named software provider.
- “**Quotation**” means Seller’s official quotation to Buyer for the purchase by Buyer and supply by Seller of Product.
- “**Terms**” means these Standard Terms and Conditions of Sale.

2. Controlling Document

These Terms are a condition of, apply to, and must govern the agreement between Seller and Buyer as set forth in the Quotation, except as follows. Where additional or different terms are contained in the Quotation, invoice, response to Buyer’s Request for Quotation (RFQ) or confirmation of Order generated by Seller or in any document which is signed on behalf of Seller by one of its officers or other Seller authorized person, then those additional or different terms shall control, and the later of these documents shall control over any earlier document. If Buyer has previously submitted to Seller, or in the future submits, an Order or similar document, Buyer should understand that whether or not Seller accepts Buyer’s offer orally or in writing, Seller expressly rejects any terms of Buyer’s Order or similar document that are additional to, different from, or inconsistent with, the Terms set forth herein. Seller will regard Buyer’s failure to object to any of these Terms within five (5) days of Buyer’s first receipt of a document containing the particular term or condition as implying Buyer’s assent thereto. These Terms shall not be modified in any way unless agreed in writing by duly authorized representatives of Seller and Buyer.

3. Quotations, Prices, Taxes

Subject to these Terms, Seller agrees to sell and Buyer agrees to purchase the quantity of Products specified on the accompanying purchase acknowledgement. Orders or requests for purchases that have not been acknowledged in writing by Seller are not binding on Seller. Any budgetary quotations and estimates are for preliminary information only and shall neither constitute offers, nor impose any responsibility or liability upon Seller.

Prices are as stated on the Quotation. All prices are subject to change or withdrawal without notice prior to acceptance of Buyer’s Order provided, however that such prices shall expire ninety (90) days after the date of the Quotation unless it has been

stated in the Quotation that such prices are to remain firm for an alternative period of time. Orders, which Seller receives during the Quotation period, will be billed at the quoted price provided shipments are authorized to be made within six (6) months of the date of Order acceptance. Orders Seller receives and accepts without prior written Quotation will be billed at prevailing list prices at the time of Seller’s receipt of the Order, providing shipments are to be made within six (6) months of the date of Order acceptance. In regard to shipments to be made more than six (6) months after Order acceptance date, Seller’s general policy is to hold prices firm over the delivery period, but Seller reserves the right to increase prices for such shipments. Seller agrees to notify Buyer of any price changes prior to shipment from Seller’s factory. Seller reserves the right to correct all typographical or clerical errors or omissions, which may be present in the configuration, specifications, or prices, set forth in all Quotations.

Unless otherwise stated in writing by Seller, prices are exclusive of any present or future duty, tax (including without limitation, any federal, state and local excise, sale, use, VAT, GST and similar tax), charge, license fees, customs fees or other government assessment or charges payable by reason of this transaction. All taxes, import/export duties and excises of any nature whatsoever now or hereafter levied by governmental authority, whether federal, state or local, upon the sale, use, or transportation of any Equipment covered hereby, shall be reported, paid and borne by Buyer and Buyer shall hold Seller harmless therefrom. If Seller chooses to make any such payment, Buyer shall reimburse Seller in full, including any duties, taxes, or assessments, together with associated charges, as may be incurred by Seller, upon demand. If Buyer is exempt or holds a direct payment permit, Buyer shall, upon Order placement, provide Seller a copy, acceptable to the relevant governmental authorities, of any such certificate or permit. In addition to the foregoing, prices are also exclusive of all expenses of shipment, insurance and storage, all expenses related to special packing or unique circumstances, and all living and transportation expenses. Such expenses will be charged to and paid for by Buyer at Seller’s actual cost. Unless expressly agreed to in writing by Seller, prices quoted are for Products only and do not include: (i) transfer of title to technical data or proprietary rights of any kind, including, but not limited to, patent rights, (ii) qualification or testing other than Seller’s standard tests, or (iii) packaging other than Seller’s normal commercial packaging.

4. Payment

Unless otherwise stated in the Quotation or agreed in writing by a duly authorized representative of Seller, Buyer will be invoiced as follows:

Equipment: Upon credit approval, 90% of contract price upon shipment to Buyer, 10% of contract price upon completion of on-site acceptance test (see Article 9 for definition of on-site acceptance testing).

Services: For Service duration of:

- Less than one (1) week: 100% of contract price due upon Service completion.
- Greater than one (1) week: invoiced and due weekly for the Services performed as of the invoice date.

Unless the invoice provides otherwise, all Seller invoices are due and payable in full, without offset, within thirty (30) days following the invoice date. All transactions will be in U.S. Dollars unless otherwise agreed upon by Seller and Buyer. Each shipment shall be considered a separate and independent transaction, and payment therefore shall be made accordingly. Where the invoice or any governing term of Seller's contract or arrangement provides that a portion of the payment is due following shipment or invoice and a second portion is due following a later event in the nature of Buyer acceptance (whether characterized as "acceptance," "customer acceptance," "completion of requirements" or otherwise) the Equipment shall be deemed accepted and the second payment shall be due and payable not later than ninety (90) days after original shipment from Seller's factory or upon the earliest to occur of the following:

- Seller receives written notice of Buyer's acceptance of the Equipment;
- Seller receives Buyer's second payment;
- the Equipment is of the same type and/or model as other(s) which have been previously delivered to and accepted by Buyer, and ninety (90) days have passed since original shipment, and Buyer has not notified Seller in writing that there is a substantial defect or other problem with the Equipment;
- the Equipment was inspected by Buyer's representative or agent at Seller's facilities prior to shipment, ninety (90) days have passed since its shipment, and Buyer has not notified Seller in writing that there is a substantial defect or other problem with the Equipment;
- Seller conducted one or more tests on the Equipment at Seller's facilities prior to shipment at Buyer's direction or request, Seller submitted the results of those tests to Buyer, Buyer did not notify Seller in writing prior to shipment that there was a substantial problem with the test results, ninety (90) days have passed since shipment of the Equipment, and Buyer have not notified Seller in writing that there is a substantial defect or other problem with the Equipment;
- acceptance would be deemed to have occurred under the UCC, as is in effect in the Commonwealth of Massachusetts, U.S.A. at time of shipment; or
- any use of the Equipment, by Buyer, its employees or agents to produce saleable product.

Any unpaid amounts pursuant to this Article 4 shall bear interest at the lesser of one- and-one-half percent (1½%) per month or the maximum rate allowed by applicable law, and, if charged, shall be due and payable upon receipt of invoice. All costs of collection incurred by Seller in collecting such unpaid amounts, including reasonable attorney and expert fees and costs of court, shall be paid by the Buyer. Seller's performance in accordance with the Terms herein is conditioned upon Buyer's having complied with this Article 4.

If, in the judgment of the Seller, the financial condition of the Buyer at any time does not justify continuation of production or shipment on the terms of payment originally specified, the Seller may require full or partial payment in advance and, if such payment is not made, Seller shall be entitled to cancel any Order then outstanding and Buyer shall pay Seller's cancellation charges. If shipments are delayed by Buyer, payments shall become due on the date when Seller is prepared to make shipment. If the work covered by Buyer's Order is delayed by Buyer, payments shall be made based on the

purchase price and the percentage of completion. Equipment held for Buyer shall be at the risk and expense of the Buyer. Seller reserves the right to ship the Buyer's original Order and make collection by Sight Draft with Bill of Lading attached. In the event of insolvency of Buyer or failure of Buyer to make payments when they are due, Buyer will be deemed in material default hereunder, entitling Seller to cease performance and to avail itself of all legal and equitable remedies.

5. Credit Terms; Grant of Security Interest

Seller reserves the right at any time to change the amount of credit extended or to withdraw credit entirely if, in Seller's opinion, Buyer's financial condition or previous payment record so warrants. On any Order on which credit is not extended by Seller, payment shall be made in advance of shipment or pursuant to an irrevocable site letter of credit unless otherwise agreed in writing by Seller.

Where credit in Seller's judgment is not warranted, whether at or subsequent to the time of acceptance of the Order, Seller reserves the right to require payment on delivery and/or at Seller's option, payment in advance for all items yet to be delivered. Seller reserves, and, by placing an Order with Seller, Buyer grants to Seller, a security interest in all Equipment delivered pursuant to the Order and any and all additions, replacements, substitutions, and repairs thereto, as well as any products and proceeds from the sale, exchange, collection or disposition of the foregoing for the purpose of securing payments due in connection with the Order and all other promises and obligations of Buyer to Seller arising under the Order. By placing an Order with Seller, Buyer agrees to provide all information and sign and execute at any time alone or with Seller any financing statements or other documents, which Seller deems reasonably necessary to protect and continue Seller's security interest under the Order. Buyer also grants Seller an irrevocable power of attorney to execute such financing statements or other documents on Buyer's behalf. Seller reserves all rights granted to a secured creditor under the Uniform Commercial Code or any other applicable law, including the right to repossess upon default of the Agreement by Buyer. Buyer shall prevent and hold Seller harmless against assertions of interest or claims by third parties. When all of Buyer's promises and obligations under the Order and the related invoice(s) have been fully paid and satisfied, Seller's security interest shall terminate.

6. Changes and Cancellations

ALL ORDERS ARE SUBJECT TO CANCELLATION AND RESCHEDULE

FEES. If Buyer issues a change order causing a delivery delay or cancels an Order prior to scheduled shipment, Buyer shall be subject to a charge based upon the list price of the affected Product. The following table depicts the cancellation and delay fees. Seller will accept in writing a maximum of one (1) reschedule per Order with the following conditions:

Number of Weeks Prior to Original Shipment Date	Delay / Reschedule Fee*	Cancellation Fee
0 – 6	15%	100%
7 – 12	10%	80%
>12	No Additional Charge	25%

*The revised ship date must not exceed 3 months of any reschedule notification.

Cancellation may not occur after shipment. In addition, if Buyer cancels an Order for special equipment or services any time after the Order is received by Seller, Buyer may be subject to an additional charge. Special equipment or services are those items not set forth in Seller's current price list.

Seller may cancel these Terms, without penalty, if Buyer fails to remain current in its payment obligations under Article 4 hereof, in which case Buyer will immediately pay to Seller cancellation charges calculated pursuant to this Article.

7. Shipment Terms and Risk of Loss

All deliveries quoted signify shipments from Seller's facility on a specific date. Shipment dates quoted by Seller are estimates based upon on Seller's current schedule commitments, Buyer's specified requirements at the time of Order acceptance and are contingent on timely receipt of all documentation required by Seller from Buyer. Although Seller will make reasonable efforts to meet quoted or agreed upon shipment dates, such dates are considered to be approximate, reasonable variations are allowable and Seller shall not be liable for failure to meet such dates. In the event of a delay due to circumstances beyond the control of Seller, the shipment date(s) shall be deferred for a period equal to the time lost by reason of such delay. In the event of any default by Buyer, Seller may decline to make further shipments without in any way affecting its rights under the Order. If, despite any default by Buyer, Seller elects to continue to make shipments, its action shall not constitute a waiver of any default by Buyer or in any way affect Seller's legal remedies.

Unless otherwise specified in writing, all shipments hereunder shall be ex-works (EXW, Incoterms 2010) Seller's manufacturing facility at which time Seller's liability for delivery shall cease, and title to and risk of loss of the Equipment shall shift to Buyer upon delivery of the Equipment to the carrier at the shipping point, the carrier acting as Buyer's agent. Buyer will be responsible for clearing the Equipment for export and loading the Equipment on the shipment vehicle. All shipping charges shall be paid by Buyer. Buyer may request a desired method of shipment; however, if Seller receives no such request or if such request is inappropriate, Seller will select the method of shipment at its own discretion. Full value will be declared on rail, air and motor freight bills of lading, and merchandise will be insured at Buyer's expense for such full value. Seller will not insure Equipment unless requested by Buyer and agreed by Seller in writing. If so agreed by Seller, Buyer shall reimburse Seller for any such insurance coverage and costs incurred therefor. Any claims for damages by Buyer must be filed with the carrier.

Seller reserves the right to allocate inventories and current production when there is reason to believe that Government regulations or other business or non-business causes, whether similar or dissimilar, may make this action necessary. Equipment may be shipped "disassembled" to the extent that Seller considers it necessary for proper protection during shipment.

8. Equipment Installation

Buyer and Seller will coordinate installation requirements no later than one month prior to the scheduled shipment date, unless otherwise agreed. Seller will provide normal installation and verification of proper operation of the Equipment at Buyer's site for all Equipment invoiced greater than US\$100,000. In the event the Equipment is valued less than \$US100,000 are to be installed by Seller, Buyer shall pay installation charges at Seller's then-current rates. Basic familiarization and operation of the Equipment will also be provided at this time until formal training can be scheduled. It is Buyer's responsibility, at Buyer's expense, to confirm that Buyer's facility is properly prepared and ready to accept the Equipment before the installation is scheduled. Preparation shall include, but not be limited to, having completed facilities, utilities, access, lighting and other requirements in accordance with the Seller's instructions. Buyer shall be responsible for obtaining all permits and for meeting all other requirements of any kind related to state and local codes, registration, regulations and ordinances. In the event that the facility and/or utilities are not ready as required for installation, Buyer is liable for any additional costs associated with the delay on a billable basis including but not limited to revisit expenses.

9. Inspection, Testing and Acceptance

Source Inspection - A source inspection may be performed if referenced in an Order unless otherwise mutually agreed to by Buyer and Seller. Seller shall notify Buyer when source inspection will be conducted prior to shipment, provided that such inspection by Buyer of Equipment on Seller's premises shall be scheduled in advance and during normal business hours. The source inspection is intended to verify that all Equipment supplied hereunder performs to the official specifications as specified in the Quotation. Unless Buyer states specific objections in writing within five (5) days after completion of the source inspection, completion of the source inspection constitutes Buyer's factory acceptance of the Equipment and authorizes shipment.

On-site Acceptance Testing - When on-site acceptance testing is to be performed, the on-site test will be performed together by Seller personnel and Buyer personnel. The acceptance test is intended to verify that all Equipment supplied hereunder:

- performs to Seller's official published specifications; and
- for Equipment, has arrived at site complete, without physical damage, and is ready for application of power.

Completion of the on-site acceptance test constitutes full and final acceptance of the Equipment. Final acceptance shall be deemed to have been made by Buyer in the event:

- acceptance is not performed within sixty (60) days after arrival of the Equipment at the site due to no fault of Seller; or
- Buyer beneficially uses the Equipment. Beneficial use is defined as using the Products for something other than testing, including but not limited to pilot production, engineering test lots, production, and device prototyping.

All Products other than Equipment shall be deemed accepted upon receipt.

10. Changes

Any changes affecting the Product or otherwise affecting the scope of work, must be mutually agreed on between Seller and Buyer, and resulting adjustments to affected provisions, including price, schedule, and guarantees, must be submitted in writing prior to implementation of change.

11. Operator Training

Seller will provide up to two (2) days of introductory operation and application training at Buyer's site after installation of the Equipment is completed unless specifically excluded as is the case with parts. The foregoing training is only provided in relation to the sale of new Equipment (i.e. not used or refurbished Equipment).

Should additional training be required, training credits may be purchased separately from Seller. Training credits are not provided for Equipment or for repair parts unless otherwise set forth in the Order.

One (1) training credit equals approximately one (1) day of training. All training will be scheduled after successful installation, verification of operation and system acceptance has been completed, unless otherwise agreed to by the Seller. To schedule training, Seller requires at least ninety (90) days lead time.

All of the foregoing training credits expire six (6) months following the date of shipment and may only be applied to classes that are associated with the Equipment purchased under which the training credits were issued. Additional training in the operation, application, or maintenance (inclusive of basic system theory of operations, system safety, wafer recovery and basic preventive maintenance) of the Equipment both on-site and at Seller's facilities is available on a billable basis.

12. Equipment Service Response

Seller will provide at no charge during the warranty period, the necessary Service and parts, excluding pre-identified consumables, to repair the Equipment, the terms for which are set forth below. Response is targeted within twenty-four (24) hours of the confirmation of failure of the Equipment by Seller's personnel. Normal hours of service are Monday through Friday 8 AM to 5 PM local time, not including weekends and Seller-designated holidays. Faster response times and extended service contracts are available at additional cost. For additional details on warranty coverage, please refer to Article 15.

13. Buyer's Responsibility

Buyer agrees to advise Seller in writing of safety practices applicable to Buyer's site where Service will be performed, and to identify any potential health hazards or other hazardous working conditions prior to the commencement of work hereunder. Any Buyer training programs detailing site-specific safety practices will be made available to Seller's on-site personnel at no cost to Seller.

Buyer agrees to prepare the installation site prior to delivery and to receive (including removal from carrier at the site), store, install, commission, start up and maintain the Equipment according to Seller's specification.

Buyer shall as a condition of Seller's obligation to perform hereunder, maintain the Equipment, facilities, site and/or environmental conditions in accordance with specifications consistent with the industry.

Buyer agrees that its right and license to use any Embedded Software licensed hereunder is expressly conditioned upon Buyer being in compliance with its obligations herein, including but not limited to its payment obligations, and in the event Buyer fails to so comply, Seller shall have the right to seek whatever remedies are available to it, including but not limited to terminating the license and disabling the Embedded Software.

14. Equipment Discontinuation

In the event that Seller decides to discontinue Equipment, which it may do in its sole discretion, Seller shall continue to provide full parts and Service support for such Equipment for a period of five (5) years from the date of the discontinuation of sales for the Equipment. During this time, should a part used in the Equipment no longer be available, Seller will offer a suitable replacement part to Buyer, but in doing so, Buyer may be required to significantly modify or upgrade the Equipment. Buyer will have the option as to whether to proceed with such modification/upgrade. Seller will endeavor to notify each Buyer in the event Equipment which was purchased from Seller is discontinued.

15. Warranty

Equipment - Unless otherwise stated, Seller warrants that the Equipment provided to Buyer operates materially in accordance with Seller's published specifications at the time of Buyer's purchase and that the Equipment shall be free from defects in material, workmanship and operating failure, if used by Buyer in an appropriate and reasonable manner consistent with normal usage of the Equipment and in accordance with any special instructions from Seller, (i) for standard Equipment sold with install obligation, for a period of one (1) year from the date of final acceptance but not to exceed fourteen (14) months from the date of shipment; (ii) for standard Equipment sold with no install obligation, for a period of one (1) year from the date of shipment. The warranty detailed thereto applies to new Equipment only. For equipment which are not standard Equipment of Seller, such as developmental or custom designed equipment, Seller warrants to Buyer that such equipment delivered hereunder will conform to the applicable specifications and be free of defects in material and workmanship upon receipt by Buyer and for a period of fourteen (14) months from the date of shipment. Warranty for used or refurbished Equipment will be outlined in Seller's official quotation. In addition, any use of the Equipment by the Buyer, its employees or agents resulting in the production of saleable product prior to acceptance will constitute acceptance of the Equipment and the warranty period will begin on the date of first use to make saleable product. Seller's exclusive obligation and liability, with respect to the above warranties, is, at Seller's sole option, at Seller's sole cost and expense and as Buyer's sole and exclusive remedy, to correct, repair, replace, adjust, or modify the Equipment or parts of the Equipment within a reasonable period of time if a defect in material, workmanship or operating failure occurs and is reported by Buyer in writing to Seller within the aforesaid period. All transportation charges associated with this Equipment warranty will be arranged and paid for by Seller. The warranties set forth herein shall include the costs of labor, travel time and expense. (i) for Equipment, for Seller to repair or replace the affected Good, correct the deficiencies or, if the deficiencies cannot be corrected or the Good cannot be repaired or replaced, upon return to Seller of such Good, refund to Buyer an equitable portion of the amounts paid to Seller for such Good, and Seller waives all responsibilities regarding Equipment performance under this warranty if non-approved third-party software is loaded onto or is used in conjunction with the Equipment by Buyer without prior written consent of the Seller. Compatibility problems or performance degradation may occur when installing unapproved software applications or drivers that modify the Equipment controller's setup files or actively run in the background while the Embedded Software is operating. Alterations to the Equipment controller's configuration can result in slow performance, intermittent Equipment functionality or a non-working Equipment. Any repairs to or alterations of the Equipment shipped hereunder must be authorized in writing by Seller to prevent voiding Seller's warranty.

To the extent allowed by applicable law, the warranty herein is made only to the original Buyer of the Equipment. There are no third-party beneficiaries of this warranty and

it is not intended for nor does it apply to any other party.

Embedded Software - Seller warrants that it shall repair or replace, at its option, Embedded Software which fails, in a manner which significantly and adversely affects operating performance, to conform to Seller's specifications delivered to Buyer, provided Seller receives written notification of any such failure to conform within one

(1) year from date of shipment. Seller does not warrant that the Embedded Software is free from errors.

Service Labor - Seller warrants that it shall re-perform any Services performed which are found to have been performed other than in a professional manner and in accordance with sound, generally accepted engineering and professional practices in effect at the time of performance, provided Seller receives written notification of the observed condition within thirty (30) days from date of such performance. If the deficiencies arising from the Services cannot be fixed refund to Buyer an equitable portion of the amounts paid to Seller for such Services; provided that

- Seller is notified in writing by Buyer within thirty (30) days after discovery of deficiencies or failure to meet specification;
- Buyer obtains a RETURN MATERIAL AUTHORIZATION from Seller prior to returning any defective Equipment to Seller;
- the defective Equipment is returned to Seller, transportation charges prepaid by Buyer;
- the defective Equipment is received by Seller for adjustment no later than four (4) weeks following the last day of the relevant warranty period; and
- Seller's examination of such Equipment shall disclose, to its satisfaction, that such defects or failures have not been caused by misuse, abuse, neglect, improper installation or application, repair alteration, accident or negligence in use, storage, transportation or handling.

In the event that any one or more of the foregoing conditions is not satisfied, Seller shall have no liability under this Services warranty whatsoever. All transportation charges associated with this Services warranty will be arranged and paid for by Seller. All warranty work will be performed in any consecutive eight (8) hour period between 8AM and 6PM local time, Monday through Friday.

Repair Parts or Embedded Software Corrections - Repair parts, whether installed by Seller or Buyer, are warranted for sixty (60) days from Seller's invoice date. The warranty term of the Equipment in which the repair parts are installed can be neither increased nor decreased by virtue of the repair part installation. Embedded Software corrections installed by Seller are warranted for sixty (60) days from Seller's invoice date. Seller shall repair or replace, at its option, repair parts and Embedded Software corrections furnished in association herewith which are found to be defective in material or workmanship, provided Seller receives written notification of any such defect within the cited warranty period. Repair parts and Equipment may, at Seller's discretion, be new, remanufactured, or refurbished and will be furnished on an exchange basis. The defective repair part or Equipment will be Seller's property. Defective parts claimed under the system warranty are to be returned to Seller within thirty (30) days of shipment of the repair part. Consumable parts offered by Seller may be purchased on a billable basis. All transportation charges associated with this repair parts or Embedded Software corrections warranty will be arranged and paid for by Seller.

The foregoing warranties and Seller's liability are expressly subject to Buyer's proper use, management and supervision of the Equipment. The Equipment warranties shall not apply to and Seller shall not be responsible or liable for any deficiency or defect resulting from:

- normal wear and tear, or components subject to deterioration, breakage, or burnout through use;
- Equipment changes, modifications, relocations or alterations or Embedded Software changes, modifications or alterations made by Buyer or a third party without Seller's written consent;
- Equipment installation by Buyer or unauthorized third party or by maintenance conducted on the Equipment by an unauthorized third party;
- incorrect operation, tampering, misuse or abuse;
- operation of the Equipment with parts not procured from Seller or without Seller's written authorization; failure of Buyer to maintain the Equipment, facilities, site and/or environmental conditions or operate the Equipment in accordance with Seller's instructions as set forth in Article 13;
- Equipment manufactured by third parties for resale to Buyer; or the use of replacement parts not approved by Seller or that do not meet the original Equipment specification; or
- causes beyond Seller's reasonable control, including, but not limited to, Force Majeure events and application assistance outside of the original Equipment specifications.

The Embedded Software warranties shall not apply to and Seller shall not be responsible or liable for any deficiency or defect resulting from:

- Embedded Software changes, modifications or alterations made by Buyer or a third party without Seller's written consent;
- improper installation or maintenance of the Embedded Software other than by Seller;
- accident, neglect, failure of electric power, storage or use in improper or adverse environmental conditions, misuse, tampering, abuse, negligence, catastrophe, operator error, or causes other than use in ordinary commercial or industrial application;
- errors which are not generated by the Embedded Software as delivered by Seller to Buyer, including errors which are created in the interaction of the Embedded Software with non-Seller software, provided such problems are not caused by the Embedded Software; or
- failure or incompatibility of computer hardware, equipment or software not supplied by Seller.

Should Seller determine the root cause of Buyer's warranty claim is due to any of items listed above, any Service provided by Seller under such claim will be charged to Buyer at Seller's standard Service rates, including but not limited to labor, travel costs and repair parts.

Buyer's sole right, upon a defect in the Equipment or a failure of the Equipment to perform in accordance with its specifications, is to notify Seller and have Seller (at Seller's sole option) repair or replace the Equipment. Provided that Seller proceeds to repair or replace the Equipment, Buyer shall have no right to reject the Equipment, rescind the purchase or recover any amounts previously paid. Seller's aggregate liability hereunder shall be limited to the repair, replacement, or re-performance described above, and shall in no case exceed the Contract Price. Seller's warranty shall not be enlarged, diminished, or affected by, and no obligation or liability shall arise or grow out of, Seller's rendering of technical advice or services in connection with Buyer's Order of the Equipment delivered hereunder. The foregoing states the entire warranty liability of Seller.

TO THE EXTENT NOT PROHIBITED BY LAW, THE FOREGOING WARRANTIES ARE EXCLUSIVE AND EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES OR CONDITIONS, EXPRESSED OR IMPLIED, OR STATUTORY, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON INFRINGEMENT, OR ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE., ALL OF WHICH OTHER WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED.

16. Licenses

Patents. Seller grants to Buyer a non-assignable, non-transferable, non-exclusive, royalty-free license to use patented methods and processes of Seller to the extent necessary for Buyer to use, in the manner permitted in this Order. This license does not extend to the use of any of Seller's patented methods or processes in products not purchased from or supplied by Seller or in Equipment which have been substantially altered by Buyer or any third party. Any and all such other use of Seller's patented methods or processes is expressly not authorized. Purchaser shall not disassemble any Equipment or use any of Seller's technical information for any purpose related to "reverse engineering" of any Equipment.

Embedded Software License. The following Terms reflect the provisions to which Buyer, as licensee, and Seller, as licensor, agree with regard solely to the Embedded Software.

The Programs, each of which are subject to a restricted license, may include source code provided by such Licensor in its standard shipment of such Programs that may only be used hereunder in conjunction with the Programs. Further, the Programs are licensed for use solely as part of the Seller Equipment on which the Program is first installed. By installing, copying or otherwise using the Programs or the Equipment incorporating the Embedded Software, Buyer expressly agrees to be bound by the Terms herein. The terms of any license agreement packaged with Embedded Software or provided as a Service shall prevail over these Terms. If Buyer does not agree to be bound by these Terms, Buyer must promptly notify Seller and return the Programs to the place or person from which Buyer received the Programs.

Subject to the terms below, Seller hereby grants to Buyer a personal, non-assignable, non-transferable, non-sublicensable, non-exclusive, royalty-free right to use, solely in object code form, the Embedded Software and the intellectual property contained therein, furnished hereunder for the limited use described herein and in the Documentation. The Embedded Software shall be used only in connection with the Equipment either provided by Seller or to be serviced hereunder. This license shall remain in effect until retirement or decommissioning of the Embedded Software or the Equipment provided or being serviced by Seller hereunder unless terminated by Seller due to Buyer's breach of the provisions of these Terms. Upon termination of the license, Buyer shall cease using the Embedded Software and immediately return to Seller, or certify the destruction of, all copies of the Embedded Software in Buyer's possession or under its control. Pursuant to the license granted herein, Buyer may use the Embedded Software if Buyer meets and agrees to the following:

Buyer may:

- use the Embedded Software in object form within the scope of the application package and for internal business purposes only;
- make only one (1) copy of the Embedded Software solely for backup or archival purposes; provided, that any copies must contain the same proprietary notices that appear in or on the original Embedded Software;
- permit Buyer's agents or contractors to use the Embedded Software on Buyer's behalf consistent with these Terms and provided that Buyer is responsible for such agents' or contractors' compliance herewith;
- load the Embedded Software into RAM or install the Embedded Software on hard disc or other storage device solely at the installation site specified in the Order;
- access the Embedded Software from a hard disk or over a network which is confined internally to the installation site; and/or
- reassign the Embedded Software within the installation site subject to the quantities described in the Order.

Buyer may not:

- transfer any Embedded Software except for temporary transfer in the event of computer malfunction;
- sell, resell, distribute, rent, give, convey, assign, pledge, provide or otherwise transfer the Embedded Software, title to the Embedded Software or any interest in the Embedded Software to any other individual or entity;
- sublicense or allow leasing, timesharing, service bureau, subscription service or rental use of the Embedded Software;
- modify, translate, reverse engineer, decrypt, decompile, disassemble, attempt to derive the source code or create derivative works based on the Embedded Software or any related materials;
- duplicate or copy the Embedded Software except as provided for above;
- disclose, print or display the Embedded Software without Seller's prior written consent nor publish any results of benchmark tests run on the Embedded Software;
- copy the Embedded Software onto or otherwise use or make it available on, to, or through any public external distributed network, provided that Buyer may make a single archive copy of such Embedded Software, provided that any copy must contain the same copyright notice and proprietary markings as the original software;
- use the Embedded Software on any Equipment other than that for which it was provided;
- remove or alter Seller or Licensor copyright or proprietary notices or legends, titles, trademarks, trade names or logos from Embedded Software or any related materials, and all authorized copies of the Embedded Software made by Buyer shall include such notices or legends, titles, trademarks, or trade names; or
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While the Programs are in use by Buyer and for a period of three (3) years thereafter, Buyer shall maintain current, complete and accurate records of the location and use of all copies of the Programs. Buyer shall make these records available to Seller within ten (10) working days after Seller's request. Buyer agrees to allow Seller, with reasonable prior notice, to enter Buyer's premises during normal business hours, or to electronically access the Programs installed at Buyer's site, to verify Buyer's compliance with these Terms. If any such audit should disclose an underpayment by Buyer, Buyer shall promptly pay Seller the amount of the underpayment, and Seller's costs and expenses for such audit. Seller reserves the right to a) report the results of the audit; and/or b) assign its right to audit, to the respective Licensor as appropriate.

Buyer agrees to comply fully with all relevant export laws and regulations of the United States and other applicable export and import laws to assure that neither the Embedded Software, nor any direct product thereof, are exported, directly or indirectly, in violation of applicable laws. It is agreed to hereby exclude the application of the U.S. Uniform Computer Information Transactions Act.

In the event of termination of this license, Buyer shall immediately cease using the Embedded Software and without retaining any copies, notes or excerpts thereof, return to Seller the Embedded Software and all copies thereof and shall remove all machine-readable Embedded Software from all of Buyer's storage media (volatile or non-volatile).

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With regard to Licensors:

- to the extent permitted by law, Licensors shall not be liable for any damages, whether direct, indirect, incidental or consequential arising from the use of the Programs;
- Licensor's liability, and that of its licensors, arising out of the manufacture, sale or supplying of a Program or its use or disposition, whether based upon warranty, contract, tort or otherwise, shall not exceed the actual purchase price paid by Seller for such product; and
- Licensors are not required to perform any obligations or incur any liability hereunder other than that set forth in Seller's agreement with such Licensor. Buyer agrees that the Licensors are, to the fullest extent permitted by law, third party beneficiaries of the Software License herein and that Buyer may not confer upon any other person who is not a named party herein any right or remedy under or by reason of these Terms. In the event that the foregoing Software License is breached by Buyer, Seller and each Licensor shall have the right to directly enforce the provisions herein.

No Other Grant or Rights. Except as set forth in Section 16, the sale, lease, or other transfer of Seller's Equipment to Buyer does not convey any license or rights, by implication, estoppel, or otherwise, to any method or process invention of any patent.

17. Indemnity

General Indemnification. Buyer agrees to indemnify and save Seller, its affiliates, agents and employees harmless from all loss, cost or damage incurred by Seller including, but not limited to, attorneys' fees, litigation and other costs as a result of a) the use of the Product; b) the willful misconduct or negligence of Buyer or of its subcontractors or suppliers; c) the misapplication of Seller supplied Equipment or Services; or d) any breach of Buyer's obligations hereunder.

Intellectual Property Indemnification. Seller will indemnify, and may choose to defend, at Seller's own expense, any action brought against Buyer to the extent that it is based on a claim that the Product or any part thereof, when used for the purposes for which it is sold, infringes in design or construction any presently existing United States Patent, foreign patent, or intellectual property rights of another and Seller will pay those costs and damages finally awarded against Buyer which are attributable only to such claim on condition that:

- Seller shall be notified promptly in writing of any such action and related claim;
- Seller shall have the right of sole control of the defense of any action, including the right to select legal counsel and the right in Seller's sole discretion to negotiate and execute and finalize a settlement thereof;
- Buyer provides Seller with copies of each communication, notice or other action relating to the alleged infringement and cooperates with Seller to the extent reasonably requested in defense of the action; and
- should the Product, or any part thereof, become, or in Seller's opinion be likely to become, the subject of an injunction as a result of infringement of a United States Patent or foreign patent, then Buyer shall permit Seller, at Seller's sole option and expense to:
 - procure for Buyer the right to continue using the Product;
 - replace or modify the Product so that it becomes non infringing; or
 - grant Buyer a credit for the Product as depreciated and accept its return.

The depreciation shall be in equal amounts per year over the life of the Product, which is hereby established as four (4) years from date of original shipment. Buyer shall give Seller all necessary authority and assistance to enable Seller to comply with its obligations herein. Seller shall have no liability or obligation to Buyer under any provision of this Article with respect to:

- any claim of patent infringement which is based upon the unauthorized use of the Product or use of the Product as modified by Buyer;
- use of the Product in combination with other product, the combination of which causes a claim of infringement, when the combined use was not previously approved by Seller in writing;
- Product or programming customized to specifications required by Buyer; or
- Buyer's willful infringement of any duly issued patent.

THE FOREGOING STATES THE EXCLUSIVE REMEDIES OF THE BUYER AND SELLER'S SOLE OBLIGATION AND ENTIRE LIABILITY WITH RESPECT TO THE INFRINGEMENT OF PATENTS.

Buyer shall indemnify, defend, and hold Seller, its affiliates, agents and employees harmless from and against any and all liabilities, damages, expense, direct costs or losses resulting from any suit or proceeding brought for infringement of any patent(s), copyright(s), or for misappropriation or use of any trade secret(s), arising from compliance with Buyer's designs, specifications or instructions.

18. Confidential Information

All information and materials, specifically including Embedded Software and related Documentation, other than that contained in published brochures or Product specifications, and the intellectual property contained therein ("Confidential Information"), which are submitted to Buyer are proprietary to Seller and shall be held by Buyer in confidence and used only for the purposes specified herein. Buyer agrees to use the same standard of care to protect the Seller's Confidential Information from disclosure as Buyer uses to protect its own confidential information, but in any event not less than a reasonable degree of care. Without the prior written consent of Seller, Buyer shall not disclose Confidential Information to third parties nor reuse Confidential Information in connection or association with hardware other than that either provided by Seller or to be serviced hereunder. Buyer shall indemnify and hold Seller harmless for any cost, loss, damage or expense (including reasonable attorney's fees) arising from Buyer's use of Confidential Information or hardware provided by Seller for any purpose or in any manner other than that for which it is submitted, including use thereof in connection with items supplied by others. Confidential Information shall remain the sole property of Seller and shall be returned to Seller upon request. Any Confidential Information transferred from Buyer to Seller shall be pursuant to a mutually agreed Non-disclosure Agreement.

Confidentiality obligations set forth in this Article 18 shall commence as of the earlier of the date of the Quotation or the date of disclosure of the Confidential Information, shall remain in effect throughout the term of these Terms and any renewal of extension hereof, and shall survive any termination, cancellation, or expiration thereof for a period of seven (7) years.

Because of the confidential nature of the information, it is agreed that, in addition to any other remedies available, Seller will be entitled to injunctive relief, without any requirement to post bond, to enforce these Terms as a violation of these Terms would subject Seller to irreparable injury.

19. Excusable Delays (Force Majeure)

Seller will endeavor to meet a requested delivery schedule but in no case shall Seller incur any liability, consequential or otherwise, as the result of ceasing to manufacture any merchandise or because of any delay or failure to deliver for any cause, whether or not foreseeable, beyond its reasonable control or that of subcontractors or suppliers, if any, including, without limiting the generality of the foregoing, acts of God or of the public enemy, civil disturbance, insurrection, riot, war, sabotage, terrorism or threat thereof (whether actual or perceived, or general or specific), epidemic, quarantine restrictions, embargo, strikes or labor disputes, explosion, accident, fires, storm, flood, drought, earthquake, transportation conditions, inability to secure adequate material, labor, machinery, power or energy emergency requirements of other buyers, activities of the Armed Forces, governmental or agency acts or omissions of any kind, change of law, judicial action or any causes similar or dissimilar to the foregoing. In the event of any such delay, the date of performance shall be extended for a period equal to the time lost by reason of such delay, plus a reasonable time to resume performance.

20. Certificate of Insurance

At Buyer's request, a certificate of insurance evidencing Seller's insurance coverage will be provided.

21. Limitation of Liability

Modifications or adjustments to Buyer's processes or equipment (except for the Equipment being provided hereunder) which are made by Buyer upon the good faith recommendations of Seller shall be made at Buyer's risk. In no event shall Seller be liable for conditions of Buyer's site.

Except for the exclusive remedies contained in Articles 15 and 17, Seller shall have no liability for defects in the design, workmanship, or materials of the Equipment furnished pursuant to these Terms.

Buyer shall institute suit or claim with respect to any cause of action within one (1) year after it arises or shall be barred from doing so.

The limitations set forth in this Article 21 shall apply and be effective with respect to any claim, cause of action, or legal theory whatsoever including, but not limited to, contract or warranty (including performance guaranties) or breach thereof, indemnity, strict liability, tort (including negligence), pollution, environmental damage, toxic tort, or occupational disease.

UNDER NO CIRCUMSTANCES WILL SELLER OR ANY LICENSOR BE LIABLE TO BUYER OR ANYONE ELSE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY NATURE OR KIND INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, DATA, PRODUCTION, GOODWILL OR REVENUE ARISING OUT OF THE SERVICES OR THE USE OF OR INABILITY TO USE THE EQUIPMENT OR PROGRAMS, EVEN IF SELLER OR THE LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

EACH PARTY'S LIABILITY ARISING OUT OF OR IN CONNECTION WITH A BREACH OF THIS AGREEMENT OR OF ANY TERM OR CONDITION HEREOF OR OF ANY OBLIGATION ARISING IN CONNECTION WITH THE PRODUCTS SOLD HEREUNDER, SHALL BE LIMITED TO THE AMOUNT PAID OR PAYABLE BY BUYER FOR THE RELATED ITEM, AND IN NO EVENT SHALL THE AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH ANY OF THE FOREGOING EXCEED, IN THE CASE OF SELLER, THE TOTAL AMOUNT RECEIVED BY SELLER FROM BUYER UNDER THE AGREEMENT, AND IN THE CASE OF THE BUYER, THE TOTAL AMOUNT PAYABLE TO SELLER BY BUYER UNDER THE AGREEMENT. THE LIABILITY LIMIT IS CUMULATIVE AND NOT PER INCIDENT. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR COSTS OF SUBSTITUTE EQUIPMENT OR SERVICE OR FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL EXEMPLARY OR INDIRECT DAMAGES, OR FOR INTERRUPTION OF BUSINESS, OR LOSS OF USE, PROFITS OR GOODWILL (WHETHER BASED ON CONTRACT,

WARRANTY, TORT OR OTHERWISE). The limitations in this Section do not apply to breach of or liability under any claim for infringement, misappropriation or violation of a party's intellectual property rights by the other party or parties hereto or in the event of gross negligence by the other party or parties hereto.

22. Independent Contractor

The relationship of Buyer and Seller established by the Agreement is that of buyer and seller, and nothing contained in the Agreement shall be construed to constitute the parties as partners, joint venturers, co-owner or otherwise as participants in a joint or common understanding. In the performance of Services, Seller is an independent contractor and neither Seller nor its employees shall be in any sense employees or agents of Buyer.

23. Export Compliance

Each party shall comply with all applicable laws including, but not limited to, the export control laws of the United States. If applicable, Seller shall file for a U.S. export license, but only after appropriate documentation for the license application has been provided by Buyer. Buyer shall furnish such documentation within a reasonable time after Order acceptance. Any delay in obtaining such license shall suspend performance of these Terms by Seller. If an export license is not granted or, if once granted, is thereafter revoked or modified by the appropriate authorities, these Terms may be canceled by Seller without liability for damages of any kind resulting from such cancellation. Buyer represents and warrants that the Product provided hereunder and the "direct product" thereof are intended for civil use only and will not be used, directly or indirectly, for the production of chemical or biological weapons or of precursor chemicals for such weapons, or for any direct or indirect nuclear end use. Buyer agrees not to disclose, use, import, export or re-export, directly or indirectly, any information provided by Seller or the "direct product" thereof as defined in the Export Regulations of the United States Department of Commerce, except in compliance with such Regulations. Buyer shall defend, indemnify, and hold Seller and all of Seller's suppliers harmless from any claims arising out of Buyer's violation of applicable export control laws.

24. U.S. Government Contracts

Unless specifically referred to by a federal contract identification number and classified in writing as a "government contract", these Terms shall be considered by the parties as not being subject to regulations applicable to government contracts. For Orders placed in support of and charged to a U.S. Government Prime Contract, only those mandatory flow-down clauses applicable to an item meeting the Federal Acquisition Regulation (FAR) definition of a commercial item in effect as of the date of the Order shall apply.

25. Arbitration

Except for the right of Seller to apply to a court of competent jurisdiction for a temporary restraining order, a preliminary injunction, or other equitable relief to preserve the status quo or prevent irreparable harm, any dispute, controversy or claim arising out of, or relating to these Terms, or the breach thereof, which cannot be settled amicably by the parties, shall be settled by arbitration pursuant to the rules of the American Arbitration Association. In the event that the dispute cannot be resolved within thirty (30) days after receipt of written notice from one to the other, either party may refer it to arbitration and the other party shall be compelled to submit to arbitration. In no event shall the arbitrators be empowered to disregard the intent of the clauses of these Terms as construed in accordance with their English language meaning. In every case the Arbitrators will give written reasons for their award. The Arbitration shall take place in the English language and in the city of Boston, Massachusetts, USA.

26. Entire Agreement

These Terms constitute the entire agreement between Seller and Buyer and there are no agreements, understandings, restrictions, warranties, or representations between Seller and Buyer other than those specifically agreed to and set forth on the Quotation, including its attachments, and those set forth herein and herein provided for. No course of dealing or usage of trade or course of performance shall be relevant to explain or supplement any terms expressed herein. **BUYER ACKNOWLEDGES THAT BUYER HAS READ AND UNDERSTANDS THESE TERMS AND AGREES TO BE BOUND BY ITS TERMS. BUYER FURTHER AGREES THAT THESE TERMS ARE THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN BUYER AND SELLER REGARDING THE PRODUCT AND/OR PROGRAMS, AND SUPERSEDES ANY PROPOSAL OR PRIOR AGREEMENT, ORAL OR WRITTEN, AND ANY OTHER COMMUNICATIONS RELATING TO THE SUBJECT MATTER OF THESE TERMS.**

27. Severability

If any part, term or provision of these Terms shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the provision shall be deemed to be severable from the remainder of these Terms and shall not cause the invalidity or unenforceability of the remainder of these Terms or of any other remedy or limitation thereof set forth in these Terms. The parties agree, however, to negotiate an equitable amendment to the Agreement if a material provision is thus adversely affected. Failure to enforce any of the provisions of these Terms shall not be a waiver of such provision, or a waiver of subsequent enforcement.

28. Notices

Whenever by the terms hereof, notice, demand or other communication shall or may be given by one party to the other, it shall be in writing and shall be sent either by: a) delivery in person or sent by a delivery service, when served, b) certified or registered mail, return receipt requested, postage prepaid; c) express mail or other overnight courier; d) telex or telegram; or e) legible facsimile transmission (provided that the receipt of such facsimile transmission is confirmed and a copy thereof is sent immediately thereafter by pre-paid registered post or commercial courier), addressed to the party for which it is intended at the party's primary business address, or at such address or addresses as either party shall designate by like notice to the other.

29. Governing Law

These Terms and the agreements related thereto shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts in the United States of America and governed by the laws thereof, including the Uniform Commercial Code ("UCC"), without regard for conflicts of law and without regard to any modification of the UCC which might arise from application of intentional treaty or otherwise. The state and federal trial courts of general jurisdiction over Boston, Massachusetts, USA will have exclusive (other than in connection with enforcement of a judgment) jurisdiction and venue over any suit filed in connection with the Agreement. The parties hereby consent to jurisdiction, including personal jurisdiction, and venue in such courts with regard to controversies in connection with this agreement. The 1980 U.N. Convention on contracts for the International Sale of Goods shall not be applicable to these Terms. These Terms shall be enforceable by and shall be for the benefit only Buyer and Seller and no other parties

30. Official Language

The English version is the official version of the Agreement. If the Agreement is translated into any other language and a conflict exists between the translation and the English version, the English version shall control.

31. Survival

The termination of the Agreement shall not affect (i) any payment obligation that arose prior to termination, or where applicable, after termination, nor (ii) Article 1. Controlling Document; 4. Payment; 5. Credit Terms; Grant of Security Interest; 7. Shipment Terms and Risk of Loss; 9. Inspection, Testing and Acceptance; 12. IP Rights, Ownership and License; 15. Warranty; 17. Indemnity; 21. Limitation of Liability; each of which shall survive.

32 Assignment

The Buyer shall not, directly or indirectly, sell, transfer, assign (in whole or in part), convey, pledge, encumber, or otherwise dispose of this Agreement of any right or duty hereunder without the prior written consent of Seller. Any such purported sale, transfer, assignment, conveyance, pledge, encumbrance, or other disposal without the prior written consent of Seller shall be void.

33 Materials Requirements

To conserve scarce materials and efficiently use high value parts, Products may contain recycled, refurbished or remanufactured parts. Such parts are subject to the same high standard quality control applied to other parts and are covered by the same standard warranty.