

**CYBEROPTICS
TERMS AND CONDITIONS OF SALE & LICENSE**

These terms and conditions, and any applicable CyberOptics' quotation, sales order acknowledgement and Separate Software License, along with any other documents incorporated by reference in any of the foregoing (hereinafter collectively the "Agreement"), bind the buyer ("Buyer") and CyberOptics as to any hardware products sold by CyberOptics to Buyer ("Hardware"), any services sold by CyberOptics to Buyer ("Services"), and any software (including without limitation, any embedded software) licensed or sublicensed by CyberOptics to Buyer ("Software"), and constitute the entire agreement between Buyer and CyberOptics regarding such sale and/or license. As used herein and as applicable: (1) Hardware, Software and Services are collectively referred to as "Goods"; (2) "CyberOptics" shall mean CyberOptics Corporation and any wholly-owned subsidiary of CyberOptics Corporation, including, without limitation, CyberOptics Semiconductor, Inc.; and (3) the term "Separate Software License" shall mean a set of terms and conditions that govern the licensing of specific Software and which set of terms is provided with or as part such Software.

This Agreement is subject and expressly limited to the terms and conditions contained in this Agreement. Any terms or conditions stated by the Buyer in any prior, concurrent and/or subsequent request for proposal, offer, purchase order and/or other documents are deemed by CyberOptics to be a material alteration of this Agreement and are hereby rejected and inapplicable unless specifically agreed to in writing by an authorized representative of CyberOptics. **Buyer shall be deemed to have accepted the Agreement and all of its terms and conditions, without exception, if any of the following events occur: (1) Buyer communicates to CyberOptics its acceptance of the applicable CyberOptics' quotation and/or sales documents; (2) Buyer issues CyberOptics a purchase order which includes the same Goods and prices as set forth on the corresponding CyberOptics' quotation and/or sales documents; and/or (3) CyberOptics delivers any of the Goods covered by the applicable CyberOptics' quotation and/or sales documents.**

1. **PRICES:** Except as otherwise set forth in writing by CyberOptics, the price for Goods shall be as set forth in the applicable CyberOptics' quotation and/or sales documents, or if the price is not set forth in any such quotation or documents, as set forth in the applicable, then-current CyberOptics' published list price. Prices set forth in a CyberOptics' quotation shall be valid for thirty (30) days from the date of such quotation.
2. **SHIPPING, RISK, TITLE AND ACCEPTANCE:** All shipping dates are approximate and are based on CyberOptics' prompt receipt of all necessary information from Buyer to properly process the order. Goods are shipped Ex-Works CyberOptics' facility (pursuant to Incoterms 2000). Subject to Section 8(a) below, title to the Goods and risk of loss thereto shall transfer to Buyer upon tender of the Goods to a carrier at CyberOptics' factory. Buyer shall be responsible for all of the following related to the Goods: freight costs, risk, securing insurance, arranging for a carrier and determining the method of shipment. Hardware and Software shall be deemed accepted by Buyer upon delivery to the Buyer. Services, including without limitation any installation Services provided for any of the Goods, shall be deemed accepted upon completion of the Services.
3. **TAXES AND DUTIES:** Prices do not include applicable taxes, duties or fees, including without limitation, any sales, excise, value added or goods sold taxes, or any customs duties or fees. Except for taxes due on CyberOptics' net income, any taxes, duties or fees payable on any transactions hereunder shall be the responsibility of Buyer, and CyberOptics may invoice Buyer for any such taxes, duties or fees that are or may be payable by CyberOptics.
4. **PAYMENT:**
 - (a) Except as otherwise required by CyberOptics in its sole discretion (e.g., payment in advance or by a letter of credit), Buyer agrees to pay CyberOptics' invoice, in U.S. currency, net thirty (30) days from the invoice date. If any payment owed to CyberOptics hereunder is not paid when due, CyberOptics may charge Buyer a late payment charge of one and one-half percent (1½ %) per month or, if less, the maximum rate allowed by law, on all past outstanding balances. In the event Buyer fails to make any payment when due, CyberOptics shall have the right, among other remedies, to terminate this Agreement or to suspend further delivery of Goods under this and/or other agreements with Buyer. Buyer shall be liable to CyberOptics for all expenses attendant to collection of any past due amounts, including without limitation, reasonable attorneys' fees.
 - (b) CyberOptics reserves a purchase money security interest in the Goods sold only to the extent of the invoiced amount and solely for the purpose of securing Buyer's payment obligation hereunder. This Agreement is a security agreement. At CyberOptics' request, Buyer agrees to promptly execute any instrument or statement, and otherwise cooperate with CyberOptics, in order to perfect the aforesaid security interest; provided, however, that in the event Buyer fails to comply with any such request, Buyer authorizes CyberOptics, or a representative on behalf of CyberOptics, to sign and file the necessary instruments or statements for the Buyer.
5. **DOCUMENTATION:** CyberOptics shall provide Buyer with that data/documentation that: (1) is specifically identified in the applicable CyberOptics' quotation and/or order documents; and (2) is made commercially available and provided by CyberOptics with the applicable Goods in CyberOptics' normal course of business.
6. **INSTALLATION:** Except as set forth in the applicable CyberOptics' quotation and/or other applicable CyberOptics' documentation provided with the Goods, Buyer shall be responsible for receiving, storing, installing, starting up and maintaining all Goods.
7. **TERMINATION AND SUSPENSION BY BUYER:** Buyer may terminate or suspend its order for any or all of the Goods covered by this Agreement, provided that Buyer gives CyberOptics reasonable advance written notice of such termination or suspension and reimburses CyberOptics for all losses, damages, costs and expenses arising from such termination or suspension; provided, however, for any orders that include Hardware that is fully manufactured, or for any orders that are terminated within thirty (30) days of the agreed to ship date, Buyer shall be responsible for paying CyberOptics the full price of the applicable Goods.
8. **SOFTWARE:**
 - (a) CyberOptics or any applicable third party owner shall retain exclusive right, title and ownership in and to their respective Software, and the license provided herein does not convey to Buyer any interest in the Software or any part thereof. Buyer acknowledges and agrees that the Software consists of proprietary material and information of CyberOptics and/or any applicable third party owner, and is protected under U.S. and foreign copyright and other intellectual property laws, as well as international treaty provisions.
 - (b) If a Separate Software License is provided with the Software, then such Software shall be governed, in order of precedence, by the terms of the Separate Software License and then by any non-conflicting terms hereof. If no Separate Software License applies, then CyberOptics hereby grants to Buyer, and Buyer accepts, a limited, personal, non-exclusive license, without the right to sublicense, to use

the Software only: (1) with the specific CyberOptics' manufactured Hardware that such Software is intended to operate with; or (2) if the Software is not intended to operate with CyberOptics' manufactured Hardware, on a single computer owned, leased or otherwise controlled by the Buyer. Any concurrent use of the Software and any use on any local area network or other type of network are not authorized. Notwithstanding any term in this Section 8(b) to the contrary Buyer's license rights in the Software shall include the right to use the Software in any manner expressly described in any CyberOptics supplied documentation as described in Section 5 above.

- (c) Except as required to be permitted by applicable law, Buyer may not copy, reverse engineer, decompile, disassemble or modify the Software in any way. The aforesaid Software license does not entitle Buyer to any Software source code.
 - (d) Repair of Software may be in the form of available corrections, fixes and/or patches to address Software bugs or inconsistencies, and/or to address non-conformance with the applicable Software specifications (collectively "Updates"). Following expiration of the Software warranty, Updates available from CyberOptics shall be provided to Buyer either: (1) in accordance with CyberOptics' quoted price therefore; or (2) at no charge if CyberOptics provides such specific Updates at no-charge on a commercial basis to all of its customers. CyberOptics shall not be required to make available any new versions and/or releases of any Software that provide new and/or enhanced features, performance and/or capabilities for the Software ("Upgrades"). In the event CyberOptics does, in its sole discretion, make any Upgrades available, such Upgrades shall be subject to CyberOptics quoted price therefore. As used in this Agreement, Software shall include any Updates and Upgrades made thereto.
 - (e) Notwithstanding any term or provision in this Agreement to the contrary, and with respect to any Software and/or any part thereof for which the intellectual property rights are not owned by CyberOptics, including any third party commercial software and any software commonly referred to as open source code or open source software (collectively "Third Party Software"): (1) any such Third Party Software shall be governed exclusively by the Third Party Software owner's applicable license terms if such terms are provided with or as part of the Third Party Software; (2) nothing in this Agreement, a Separate License Agreement or any other agreement shall restrict or otherwise affect any rights and/or obligations Buyer may have, or conditions to which Buyer may be subject to, under any open source licenses to any open source code or software provided in or with the Software; and (3) CyberOptics provides no warranty of any kind, express or implied, with respect to any such Third Party Software, which is provided "AS IS"; provided, however that Buyer may avail itself to any warranty provided by the supplier of any such Third Party Software.
 - (f) The aforesaid Software license(s) shall be non-transferable except as follows: (1) any embedded Software that is included in and intended to operate with any Hardware shall be transferable with the transfer of the Hardware to another party provided that such transfer is on terms that do not materially conflict with the Software license terms in this Agreement; and (2) for Software that is not embedded Software, Buyer shall have a permanent right to transfer all its Software rights under this Agreement to another party, provided Buyer passes all the copies of the Software licensed to the other party along with the accompanying documentation and a copy of this Agreement, and provided that the other party accepts the terms of this Agreement. If you transfer the Software as permitted herein, you may not retain any copies of the Software for your own use and your license rights under this Agreement are terminated.
 - (g) The aforesaid Software license(s) shall continue until and automatically terminate upon Buyer's breach of any of the terms hereof or an authorized transfer under Section 8(f) above, whichever occurs earlier.
9. **LIMITED WARRANTY:** With respect to all Goods, the following warranty terms ("General Warranty Terms") shall apply solely during the applicable warranty period set forth in Sections 9(a) through 9(d) below. If Buyer has used the Goods under normal use and care and discovers any defects in material or workmanship, or any material deviation from the Goods' applicable published specifications, and notifies CyberOptics in writing thereof during the applicable warranty period, CyberOptics shall, at its option, use reasonably commercial efforts to repair or replace that portion of the Goods found by CyberOptics to be defective in material or workmanship, or in material deviation from the applicable specifications, or refund the purchase price of such Goods. Any Goods to be returned to CyberOptics for repair or replacement under this warranty must be returned FCA CyberOptics' designated facility and in accordance with CyberOptics' then-current return material authorization (RMA) procedures and Buyer must contact CyberOptics and obtain an RMA number prior to any such return. The RMA number and the following statement must be included on the shipping documentation accompanying the return of any such Goods to CyberOptics: "U.S. Goods Returned". This limited warranty shall not apply in the event any such defects and/or deviations are based in whole or part by improper or inadequate maintenance, unsuitable power sources or environmental conditions, improper maintenance, alteration or modification, storage or handling, accident, repair by a party other than CyberOptics or its authorized representative, or any other cause not the fault of CyberOptics. Except as expressly set forth in this limited warranty, all costs incurred by Buyer relating to or arising out of this warranty, including without limitation, those related to dismantling and reinstallation of the Goods, shall be borne by Buyer. Except as expressly agreed to in writing by CyberOptics prior to shipment, CyberOptics makes no warranty or representation that the Goods supplied hereunder comply with any local laws, rules, regulations or ordinances, and Buyer shall be responsible for obtaining all permits, licenses, authorizations and/or certificates required by any regulatory body for installation or use of the Goods. This limited warranty is the only warranty made by CyberOptics, and CYBEROPTICS DOES NOT WARRANT THAT THE USE OF THE GOODS OR ANY PARTS THEREOF WILL BE UNINTERRUPTED OR ERROR FREE, AND THERE ARE NO OTHER WARRANTIES OR REPRESENTATIONS OF ANY KIND WITH RESPECT TO THE GOODS OR ANY PARTS THEREOF, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT.
- (a) Hardware, including embedded Software therein, is warranted for a period of twelve (12) months from the date of shipment by CyberOptics.
 - (b) Services are warranted for a period of ninety (90) days from the date the Services are provided by CyberOptics.
 - (c) Goods repaired or replaced during the warranty period, or Goods identified as rebuilt regardless of when purchased, are warranted for the longer of the remainder of the original warranty period or ninety (90) days from the date of shipment by CyberOptics.
 - (d) Software, other than embedded Software, is warranted for a period of ninety (90) days from the date of "shipment". As used herein, "shipment" shall mean either: (1) the date the Software is physically shipped by CyberOptics to Buyer (with or without Hardware); or (2) the date the Software is electronically transmitted to Buyer by CyberOptics.
10. **RESALE PRODUCTS:** Notwithstanding any term or provision in this Agreement to the contrary, products purchased by CyberOptics from a third party for resale to Buyer ("Resale Products") shall carry only the warranty extended by the original manufacturer thereof. Buyer agrees that CyberOptics shall have no liability for Resale Products beyond making a reasonable commercial effort to arrange for procurement and shipping of the Resale Products to Buyer.

11. **INTELLECTUAL PROPERTY:** Subject to the limitations contained in Section 12 below, CyberOptics shall defend any suits brought against Buyer based on a claim that use of the Goods manufactured by CyberOptics constitutes an infringement of a valid patent of the United States. The foregoing shall apply provided Buyer promptly notifies CyberOptics in writing of the filing of such suit or the threat thereof; permits CyberOptics to control completely the defense or compromise of such claim of infringement; and provides CyberOptics with all reasonable assistance and cooperation requested by CyberOptics for the defense of such suit at CyberOptics' expense. In the event that only the Goods manufactured by CyberOptics are held to be infringing in such suit and their use is enjoined, CyberOptics shall, at its sole option and expense: (1) provide a commercially reasonable alternative, including, but not limited to, procuring for Buyer the right to continue using the Goods, replacing the Goods with a non-infringing product or modifying the Goods to become non-infringing; or (2) provide Buyer with a refund equal to the purchase price of the Goods depreciated on straight-line basis over a five-year period beginning from the date of shipment of the Goods. CyberOptics shall not be liable in any manner for any claim of infringement or misappropriation of any intellectual property rights brought by or against Buyer more than five years from the date of shipment of the affected Goods, or which results from the design and/or modification of the Goods or any part thereof by a party other than CyberOptics, or which arises from the use of the Goods or any part thereof in combination with items not manufactured and supplied by CyberOptics.
12. **LIMITATION OF REMEDY AND LIABILITY:** THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY HEREUNDER SHALL BE LIMITED TO REPAIR, REPLACEMENT OR REFUND UNDER THE LIMITED WARRANTY IN SECTION 9 ABOVE. IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE), SHALL CYBEROPTICS' LIABILITY TO BUYER AND/OR BUYER'S CUSTOMERS EXCEED THE PRICE TO BUYER OF THE SPECIFIC GOODS PROVIDED BY CYBEROPTICS GIVING RISE TO THE CLAIM OR CAUSE OF ACTION. BUYER AGREES THAT IN NO EVENT, SHALL CYBEROPTICS' LIABILITY TO BUYER AND/OR BUYER'S CUSTOMERS EXTEND TO INCLUDE INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. THE TERM "CONSEQUENTIAL DAMAGES" SHALL INCLUDE, WITHOUT LIMITATION, LOSS OF ANTICIPATED REVENUE OR PROFITS, LOSS OF USE OR DATA, AND CLAIMS OF BUYER'S CUSTOMERS. CYBEROPTICS AND BUYER AGREE THAT THE LIMITATIONS SET FORTH IN THIS PROVISION SHALL BE ENFORCED AND FOUND VALID ONLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.
13. **GOVERNING LAW / DISPUTES:**
- (a) This Agreement shall be construed, performed and enforced under the laws of the State of Minnesota, U.S.A., exclusive of its conflict of law provisions. The 1980 United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. The sole venue for any court or arbitration proceedings under this Agreement shall be in the city, state and country where the CyberOptics entity that supplied the Goods is located.
 - (b) If Buyer's address for this Agreement is not located in the United States, then CyberOptics and Buyer agree that any controversy or claim arising out of or relating to this Agreement shall be determined by arbitration in accordance with the then-current Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules. Notwithstanding the foregoing, either party may, at anytime, apply to a court having jurisdiction for a preliminary injunction and/or other equitable relief where such relief is necessary to protect the party's interests pending completion or anticipated beginning of any arbitration.
 - (c) This Agreement shall be interpreted and construed in the English language and any proceedings and/or arbitration hereunder shall be conducted in English.
14. **GENERAL PROVISIONS:**
- (a) Except as expressly set forth in this Agreement, Buyer may not assign this Agreement, or any rights or obligations hereunder, without CyberOptics' prior written consent.
 - (b) No action, regardless of form, arising out of or related to this Agreement, may be brought by Buyer more than two (2) years after the cause of action has accrued.
 - (c) CyberOptics shall not be liable for delays in performance or for non-performance due to acts of God, war, terrorism, riot, fire, labor trouble, unavailability of materials or components, accident, compliance with governmental laws, rules, regulations, orders or requests, or any other circumstances or causes beyond CyberOptics' reasonable control.
 - (d) In the event any of the terms of this Agreement are in conflict with any rule of law or statutory provision, or are otherwise unenforceable under any applicable laws or regulations, such terms shall be enforced to maximum extent permitted by the applicable laws or regulations, and to the extent unenforceable, such terms shall be deemed stricken from this Agreement, but such invalidity or unenforceability shall not invalidate any of the other terms of this Agreement.
 - (e) Buyer agrees to comply with all applicable U.S. and foreign laws, regulations, orders and requirements related to the Goods and Buyer's performance under this Agreement, including without limitation, all laws and regulations governing the export, re-export and import of the Goods.
 - (f) Except to the extent otherwise required by applicable law, CyberOptics shall have no responsibility for the collection, treatment, recovery or disposal of the Goods or any part thereof when they are deemed by law to be 'waste'; provided, however, that if CyberOptics is required by applicable law to dispose of 'waste' Goods or any part thereof, Buyer shall, unless prohibited by applicable law, pay CyberOptics, in addition to the price paid for the Goods, either: (1) CyberOptics standard charge for disposing such Goods; or (2) if no such standard charge exists, CyberOptics' costs incurred in disposing such Goods, including without limitation, all handling, transportation and disposal costs.
 - (g) The Software and any documentation are commercial items developed entirely at private expense, and are provided with RESTRICTED RIGHTS as set forth in the applicable government agency clauses, including without limitation, that set forth in subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights clause at FAR 52.227-14 and/or subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFAR 252.277-7013. Use, duplication, or disclosure by any government agency or other government entity is subject to the restrictions set forth in said clauses, and the Software license set forth in this Agreement, shall prescribe exclusively the use and disclosure of the Software and documentation by any such government agency or entity.
 - (h) No failure by CyberOptics to take any action or assert any right hereunder shall be deemed to be a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right.

- (i) Any modification of these terms and conditions must be set forth in a written instrument signed by a duly authorized representative of CyberOptics.
- (j) This Agreement is the entire agreement between the parties with respect to the subject matter herein and supersedes all oral and written communications regarding the subject matter hereof. There are no understandings, agreements or representations, express or implied, not specified in the Agreement.