

## **CYBEROPTICS & LASER DESIGN TERMS AND CONDITIONS OF SALE & LICENSE**

As used herein, “Seller” shall mean the applicable selling entity, which shall be CyberOptics Corporation, or any wholly-owned subsidiary of CyberOptics Corporation, including without limitation, CyberOptics (Singapore) Pte Ltd., CyberOptics Ltd., and Laser Design, Inc.

These terms and conditions, along with any applicable Seller quotation and sales order acknowledgement, any Separate Software License, and any other documents incorporated by reference in any of the foregoing, are collectively referred to as the “Agreement”, and bind the buyer (“Buyer”) and Seller as to any Goods sold, licensed or sublicensed by Seller to Buyer. This Agreement constitutes the entire agreement between Buyer and Seller regarding such sale and/or license.

As used herein, “Separate Software License” means a set of terms and conditions that govern the licensing of specific software and that have been communicated to the Buyer by Seller, and which control in the event of any conflict. As also used herein: (1) “Products” means any 3D scanning systems, any OEM or custom made sensors, cameras or systems, any inspection systems that are not SMT Inspection Systems, any WaferSense®, ReticleSense® and wafer mapping sensors, any separately sold options and spare parts for any Goods, and any software included in any of the foregoing items; (2) “SMT Inspection Machines” means solely Seller’s SE, QX, CS and SQ series of solder paste inspection (SPI) machines and automated optical inspection (AOI) machines, and specifically excludes any 3D scanning systems; and (3) “Goods” means collectively, and as applicable, Products, SMT Inspection Machines, software and services.

Additionally, certain supplemental terms and conditions shall apply to the purchases of scanning services from Laser Design, Inc., which will be provided to Buyer at the time of quotation and which shall control in the event of any conflict.

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 Seller 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 Seller. **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 Seller its acceptance of the applicable Seller’s quotation and/or sales documents; (2) Buyer issues Seller a purchase order which includes the same Goods and prices as set forth on the corresponding Seller’s quotation and/or sales documents; and/or (3) Seller delivers any of the Goods covered by the applicable Seller’s quotation and/or sales documents.**

1. **PRICES:** Except as otherwise set forth in writing by Seller, the price for Goods shall be as set forth in the applicable Seller's quotation and/or sales documents, or if the price is not set forth in any such quotation or documents, in accordance with Seller then-current full list price. Prices set forth in a Seller's quotation shall be valid for thirty (30) days from the date of such quotation unless expressly rescinded by Seller during such 30 day period.
2. **SHIPPING, RISK AND TITLE:** All shipping dates are approximate and are based on Seller's prompt receipt of all necessary information from Buyer to properly process the order. Goods are shipped ExWorks from the manufacturing or assembly factory for the Goods (pursuant to Incoterms 2010). 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 the carrier at the applicable factory. All truck movement for SMT Inspection Machines and 3D scanning systems should be on air-ride trucks.
3. **TAXES** Prices do not include any applicable taxes on goods sold, which shall be payable by Buyer unless exempted by applicable law. Except for taxes due on Seller's net income, any such taxes shall be the responsibility of Buyer, and Seller may invoice Buyer for any such taxes that are or may be payable by Seller.
4. **PAYMENT:**
  - (a) Except as otherwise required by Seller in its sole discretion (e.g., payment in advance, milestone payments, payment by letter of credit), Buyer agrees to pay Seller's invoice, in U.S. currency, net thirty (30) days from the invoice date. Payment by credit card is authorized for any purchase orders not exceeding \$10,000 USD.
  - (b) If any payment owed to Seller hereunder is not paid when due, Seller may charge Buyer a late payment charge 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, Seller 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 Seller for all expenses attendant to collection of any past due amounts, including without limitation, reasonable attorneys' fees.
  - (c) Seller reserves a purchase money security interest in the Goods sold only to the extent of the invoiced amount and solely for the purpose of securing Buyer's payment obligation hereunder. This Agreement is a security agreement. At Seller's request, Buyer agrees to promptly execute any instrument or statement, and otherwise cooperate with Seller, in order to perfect the aforesaid security interest; provided, however, that in the event Buyer fails to comply with any such request, Buyer authorizes Seller, or a representative on behalf of Seller, to sign and file the necessary instruments or statements for the Buyer.
5. **DOCUMENTATION:** Seller shall provide Buyer with that data/documentation that:
  - (1) is specifically identified in the applicable Seller's quotation and/or order documents;
  - and (2) is made commercially available and provided by Seller with the applicable Goods in Seller's normal course of business.

6. **RECEIVING / INSTALLATION:** Except as set forth in the applicable Seller quotation and/or other applicable Seller documentation provided with the Goods, Buyer shall be responsible for receiving, storing, installing, starting up and maintaining all Goods. Notwithstanding the foregoing, with respect to 3D scanning systems, Buyer is responsible for moving the Goods to the intended location and unpacking the Goods prior to the arrival of Seller's installing technician; and shock meters affixed directly to such 3D scanning systems may only be removed by the authorized Seller technician.
7. **CANCELLATION:**  
Orders placed for the following Goods are non-cancellable: shipped Goods, custom made Goods, services that have been started, any Goods on a purchase order that is more than 60 calendar days old, and any WaferSense, ReticleSense or wafer mapping sensor Goods. For all other orders, Buyer may cancel its order at any time prior to shipment by providing written notice thereof to Seller and paying Seller liquidated damages in the following amounts: (a) if the order is cancelled within 10 calendar days of Seller's receipt of Buyer's purchase order, then an amount equal to twenty-five percent (25%) of the total order price; (b) if the order is cancelled within 11 to 30 calendar days of Seller's receipt of Buyer's purchase order, then an amount equal to fifty percent (50%) of the total order price; and (c) if the order is cancelled between 31 and 60 days of Seller's receipt of Buyer's purchase order, then an amount equal to seventy-five percent (75%) of the total order price. The parties agree that actual damages stemming from any order cancellation will be difficult to calculate and as such the parties agree that the aforesaid amounts do not represent a cancellation penalty, but rather a reasonable and good faith estimate of the actual damages incurred as a result of the cancellation. To the extent Buyer has made any payments prior to cancellation, Seller may apply any payments against any liquidated damages or other amounts due Seller under this Agreement. In addition to the amounts due Seller as set forth above, Buyer shall also be responsible for all non-cancellable travel costs incurred by Buyer related to the cancelled order. Seller will retain ownership and possession of any Goods and materials related thereto that are included on any cancelled Buyer purchase order regardless if such Goods are finished or are work-in progress.
8. **SOFTWARE:**  
(a) Seller and/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 Seller 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, referenced on Seller order documents and/or otherwise communicated to Buyer, 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 unless such Separate Software License prohibits the inclusion of any such non-conflicting terms. If no Separate Software License applies, then Seller 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 Seller's manufactured Products or SMT Inspection Machines that such software is intended to operate with; or (2) if the software is not intended to operate with Seller's manufactured Products or SMT Inspection Machine, 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 Seller supplied documentation as described in Section 5 above. Unless payment in full occurs prior to shipment, Surveyor Scan Control Software from Laser Design, Inc. is provided with a temporary license, which will be converted to permanent license upon full payment.

- (c) Except as required to be permitted by applicable law or by the terms in a Separate Software License: (1) Buyer may not copy, reverse engineer, decompile, disassemble or modify the software in any way; and (2) Buyer is not entitled 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 Seller shall be provided to Buyer either: (1) in accordance with Seller's quoted price therefore; or (2) at no charge if Seller provides such specific Updates at no-charge on a commercial basis to all of its customers. Seller 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 Seller does, in its sole discretion, make any Upgrades available, such Upgrades shall be subject to Seller 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 Seller, 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 Software License 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) Seller 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 Products shall

be transferable with the transfer of the Products 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) Except for any temporary or limited duration licenses (e.g., demonstration licenses), the aforesaid software licenses shall continue until automatically terminated upon Buyer's breach of any of the terms hereof.

9. **LIMITED WARRANTY AND SUPPORT:** 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(f) 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 Seller in writing thereof during the applicable warranty period, Seller shall, at its option, use reasonably commercial efforts to repair or replace that portion of the Goods found by Seller 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 Seller for repair or replacement under this warranty must be returned to Seller's designated facility and in accordance with Seller's then-current return material authorization (RMA) procedures and Buyer must contact Seller and obtain a RMA number and such procedures prior to any such return. 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 by any party other than Seller or its authorized representative, storage or handling, accident, repair by a party other than Seller or its authorized representative, or any other cause not the fault of Seller. Except as expressly set forth in this limited warranty, all costs incurred by Buyer relating to or arising out of this warranty, including without limitation, those related to dismantling and reinstallation of the Goods, shall be borne by Buyer. Except as expressly agreed to in writing by Seller prior to shipment, Seller 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 Seller, and SELLER DOES NOT WARRANT THAT THE USE OF THE GOODS OR ANY PARTS THEREOF WILL BE UNINTERRUPTED OR ERROR FREE, AND THERE ARE NO OTHER WARRANTIES OR REPRESENTATIONS OF ANY KIND WITH RESPECT TO THE GOODS OR ANY PARTS THEREOF, EXPRESS OR IMPLIED, INCLUDING

WITHOUT LIMITATION, THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT.

- (a) Products (including any software therein or included to operate therewith) are warranted for a period of twelve (12) months from the date of shipment by Seller.
  - (b) SMT Inspection Machines (including any software therein or included therewith) are warranted for a period of three (3) years from the date of shipment by Seller; provided, however, that the first year of warranty covers both parts and labor; the second and third years of warranty cover only replacement parts (not labor) and excludes conveyor belts and other consumables; and such replacement parts during the entire warranty period shall ship DAP per Incoterms 2010 (i.e., Buyer is responsible for clearing the goods through local customs and paying all costs associated therewith, including without limitation, paying all duties, value added taxes, goods sold taxes, and other local taxes).
  - (c) New spare parts for Goods are warranted for a period of twelve (12) months from date of shipment by Seller; provided however, that refurbished sensors or other items, conveyor belts or other consumables sold by Seller as spare parts for SMT Inspection Machines are warranted for a period of six (6) months from the date of shipment by Seller.
  - (d) Services are warranted for a period of ninety (90) days from the date the services are provided by Seller.
  - (e) Notwithstanding any of the foregoing, and excluding new spare parts that are warranted as set forth above, 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 Seller.
  - (f) Software that is not intended to operate with Products or SMT Inspection Machines 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 Seller to Buyer; or (2) the date the software is electronically transmitted by Seller to Buyer.
10. **RESALE PRODUCTS:** Notwithstanding any term or provision in this Agreement to the contrary, products purchased by Seller from a third party for resale to Buyer ("Resale Products") shall carry only the warranty extended by the original manufacturer thereof. Buyer agrees that Seller 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, Seller shall defend any suits brought against Buyer based on a claim that use of the Goods manufactured by Seller constitutes an infringement of a valid patent of the United States. The foregoing shall apply provided Buyer promptly notifies Seller in writing of the filing of such suit or the threat thereof; permits Seller to control completely the defense or compromise of such claim of infringement; and provides Seller with all reasonable assistance and cooperation requested by Seller for the defense of such suit at Seller's

expense. In the event that only the Goods manufactured by Seller are held to be infringing in such suit and their use is enjoined, Seller 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. Seller 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 Seller, or which arises from the use of the Goods or any part thereof in combination with items not manufactured and supplied by Seller.

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 SET FORTH IN SECTION 9 ABOVE. IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE), SHALL SELLER'S LIABILITY TO BUYER AND/OR BUYER'S CUSTOMERS EXCEED THE PRICE TO BUYER OF THE SPECIFIC GOODS PROVIDED BY SELLER GIVING RISE TO THE CLAIM OR CAUSE OF ACTION. BUYER AGREES THAT IN NO EVENT, SHALL SELLER'S 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, DAMAGES BASED ON ANY DELAY IN PERFORMANCE, AND CLAIMS OF BUYER'S CUSTOMERS. SELLER AND BUYER AGREE THAT THE LIMITATIONS SET FORTH IN THIS PROVISION SHALL BE ENFORCED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE LIMITATIONS SET FORTH HEREIN SHALL EXTEND TO THE BENEFIT OF SELLER'S SUPPLIERS.
13. **CONFIDENTIAL INFORMATION.** Any information disclosed by Seller to Buyer related to this Agreement, including quotations, pricing, technical information or otherwise, shall be deemed "Confidential Information". Buyer shall not disclose any Confidential Information to any third parties without Seller's prior written consent and shall use such Confidential Information only for the purposes reasonably related to the purchase and use of Seller's Goods. Seller shall, at all times, retain all right, title and interest in the Confidential Information and all copies thereof. Notwithstanding the foregoing, Confidential Information shall not include information which is or becomes publicly known through no wrongful act of Buyer.
14. **GOVERNING LAW / DISPUTES:**

- (a) This Agreement shall be construed, performed and enforced under the laws of the State of Minnesota, U.S.A., exclusive of its conflict of law provisions. The 1980 United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.
- (b) If Buyer's address is in the United States, the sole and exclusive venue for any claims or actions under or related to this Agreement shall be in the applicable state or federal courts located in Hennepin county in the State of Minnesota, U.S.A. If Buyer's address is not located in the United States, then Seller and Buyer agree that any controversy or claim arising out of or relating to this Agreement shall be determined by one of the following means: (1) any claim or controversy that is not related to non-payment of amount's due Seller by Buyer shall be addressed by binding arbitration in accordance the then-current rules of the American Arbitration Association by one or more arbitrators appointed in accordance with said rules, and such arbitration shall be conducted in the city of Minneapolis, Minnesota, U.S.A; or (2) any controversy or claim that is related to non-payment of amount's due Seller by Buyer shall be addressed, at Seller's sole option and choice, by the aforesaid arbitration process or via the local applicable courts where Buyer is located. 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 conducted hereunder shall be in English.
- (d) Notwithstanding the foregoing, if applicable law requires that any of the terms and conditions set forth in the Agreement be different than those set forth in the Agreement, including without limitation, the governing law, arbitration and/or other dispute resolution terms set forth in this Section 14, then the Agreement shall be deemed modified and amended to the minimal extent necessary to comply with and incorporate such applicable law, and the rest of the terms and conditions of the Agreement, as so amended, shall continue in full force and effect.

**15. GENERAL PROVISIONS:**

- (a) Except as expressly set forth in this Agreement, Buyer may not assign this Agreement, or any rights or obligations hereunder, without Seller's 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) Seller 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 Seller's 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



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., Singapore 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, Seller shall have no responsibility for the collection, treatment, recovery or disposal of the Goods or any part thereof when they are deemed by law to be 'waste'; provided, however, that if Seller is required by applicable law to dispose of 'waste' Goods or any part thereof, Buyer shall, unless prohibited by applicable law, pay Seller, in addition to the price paid for the Goods, either: (1) Seller standard charge for disposing such Goods; or (2) if no such standard charge exists, Seller's 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 if the software is being licensed by any governmental agency, such software is provided with RESTRICTED RIGHTS as set forth in the applicable government agency clauses. 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 Seller 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) Seller is an Equal Opportunity Employer and hereby provides notice of its compliance with the following United States Code of Federal Regulations (CFR), which are hereby incorporated by reference: 41 CFR 60-1.4; 41 CFR 60-250.5; and 41 CFR 60-741.5.
- (j) During the term of this Agreement and for a period of two years thereafter, Buyer will not directly or indirectly hire, or solicit for hire, any Seller employee who was involved in providing the Goods under this Agreement to Buyer.
- (k) Any modification of these terms and conditions must be set forth in a written instrument signed or issued by duly authorized representative of Seller.
- (l) 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.