The Terms and Conditions of Sale ("Agreement") contained herein constitute the entire agreement between Wasatch Photonics, Inc. ("WP") and you ("Customer"). WP will not be bound by any third party’s interpretation of this Agreement. Your acceptance of the acknowledgment sent to Customer, or WP’s commencement of performance shall constitute valid acceptance of Customer’s order. Any such acceptance is expressly conditioned on assent to the terms hereof and the exclusion of all other terms. Customer shall be deemed to be the terms hereof whether or not printed hereon, upon accepting delivery of any Product (as defined herein) shipped by WP. If tender of these terms is deemed an offer; acceptance is expressly limited to the terms hereof.

1. PRODUCTS: 1.1 "Products" shall mean any products identified on (a) any of WP’s proposal or purchase order applicable price lists, or (b) any custom order or (c) any of WP’s sales and marketing materials.

1.2 Alterations to any Product which WP deems necessary to comply with specifications, changed standards or governmental regulations, to make a Product non-infringing with respect to third party intellectual property rights, or to other improve the Product may be made at any time by WP without prior notice to, or consent of, Customer and such altered Product shall be deemed fully conforming.

2. ORDERS: Customer shall purchase Products by issuing a written purchase order signed by an authorized representative, indicating specific Products, quantity, price, total purchase price, shipping address, billing address, purchase order number, delivery instructions, and any other special instructions. Any contingencies contained on such order are not binding upon WP. All orders are subject to acceptance by WP, who will confirm receipt of any Product to provide a replacement Product, at WP’s sole option, for any Product which has been returned to WP under the RMA procedure (as defined below) and which in the reasonable opinion of WP is determined to be defective in workmanship, material or not in compliance with the mutually agreed written applicable specifications and has in fact failed under normal use on or before (1) year from the date of original shipment of the Product. All claims for shortage of Products ordered or for incorrect charges must be presented to WP within (30) days from the date of the shipment. WP reserves the right to require alternative payment terms including, without limitation, letter of credit or prepayment. Any tax or other charge which WP is liable to collect on behalf of any governmental authority ("Taxes") shall be paid by Customer upon receipt of invoice. Any liquidated damages, interest, delinquency charges, storage, handling or other charges including without limitation insurance, brokerage fees, duties, value added and withholding taxes, is the responsibility of the Customer, and if paid by WP shall be charged to Customer as a separate item on the invoice, to the extent reasonable.

4. TERMS OF PAYMENT: Upon credit approval by WP, payment terms shall be net thirty (30) days from the date of the shipment. WP reserves the right to require alternative payment terms including, without limitation, letter of credit or prepayment. Any tax or other charge which WP is liable to collect on behalf of any governmental authority ("Taxes") shall be paid by Customer upon receipt of invoice. Any liquidated damages, interest, delinquency charges, storage, handling or other charges including without limitation insurance, brokerage fees, duties, value added and withholding taxes, is the responsibility of the Customer, and if paid by WP shall be charged to Customer as a separate item on the invoice, to the extent reasonable.

5. PERFORMANCE AND SHIPPING: Performance and shipping dates specified or communicated by WP to the Customer are approximate dates only and the failure to perform on or before such dates shall not be considered a breach by WP. Delivery shall be deemed made upon transfer of possession to the carrier at the Ex Works point. All claims for shortage of Products ordered or for incorrect charges must be presented to WP within (10) days after receipt by Customer of the particular shipment of Products. Customer shall be responsible for the transportation Charges. Charges for all Products including without limitation freight, insurance, handling, and pro forma taxes will be billed to the Customer. If Customer requests that WP select the carrier, WP shall not be liable for damages or penalty for delay in delivery or for failure to give notice of any delay, and carrier shall not be deemed to be an agent of WP.

6. CANCELLATION: The Customer may not cancel, terminate, suspend performance of, or issue a substitute order, in whole or in part, or rescind any order for any Products, which consent, if given, shall be upon terms that will compensate WP for any loss or damage there from, including but not limited to, the price of Products shipped to, manufactured for, or held separately for, the Customer, and loss of profits, incurred costs, and a reasonable allocation of general and administrative expenses relating to the Products.

7. LIMITED PRODUCT WARRANTY: Notwithstanding any provision to the contrary, WP’s sole and exclusive obligations to the Customer for any Product made by WP and sold hereunder shall be to repair or replace Products that are defective in workmanship, material or not in compliance with the mutually agreed written applicable specifications and has in fact failed under normal use on or before (1) year from the date of original shipment of the Product. All claims for shortage of Products ordered or for incorrect charges must be presented to WP within (30) days from the date of the shipment. WP reserves the right to require alternative payment terms including, without limitation, letter of credit or prepayment. Any tax or other charge which WP is liable to collect on behalf of any governmental authority ("Taxes") shall be paid by Customer upon receipt of invoice. Any liquidated damages, interest, delinquency charges, storage, handling or other charges including without limitation insurance, brokerage fees, duties, value added and withholding taxes, is the responsibility of the Customer, and if paid by WP shall be charged to Customer as a separate item on the invoice, to the extent reasonable.

8. RETURN MATERIAL AUTHORIZATION PROCEDURES: WP will only accept Returns under the RMA procedure. Upon receipt of an approved RMA, WP will issue a RMA number and log the return. Customer shall obtain a RMA number from WP prior to returning any Product and request a Return Material Authorization ("RMA") from WP, who will accept or reject orders according to WP’s then current processes. Any Product returned under the WP Return Material Authorization process (“RMA”). Customer shall obtain a RMA number from WP prior to returning any Product and return the Product returned under the WP Return Material Authorization process (“RMA”). Customer shall obtain a RMA number from WP prior to returning any Product and return the Product. Any Product which has been returned to WP but which is found to meet the applicable specification for the Product and not defective in workmanship and material, shall be subject to WP’s standard examination charge in effect at the time which shall be charged to the Customer. Where any Product is returned without an itemized statement of claimed defects, WP will not evaluate the claim. WP shall not be responsible for any products accepted or acknowledged for return by WP. In the event a claim is filed by Customer for any submitted claim, if WP determines the submitted claim to be valid, WP will issue a credit memo at WP’s sole discretion.

9. LIMITATION OF LIABILITY: EXCEPT FOR THE WARRANTIES STATED HEREIN FOR THE CUSTOMER, NO WARRANTY, CONDITION OR REPRESENTATION, EXPRESS, IMPLIED, ORAL OR STATUTORY, IS PROVIDED TO THE CUSTOMER OR ANY THIRD PARTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY, CONDITION OR REPRESENTATION, EXPRESS OR IMPLIED, ORAL OR STATUTORY, OF MERCHANTABILITY, SATISFACTORY QUALITY, OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES HEREUNDER AND THE ONLY LIABILITY OF WP IS EXPRESSLY LIMITED TO THE TERMS OF THE AGREEMENT. WP SHALL NOT BE LIABLE TO CUSTOMER, ANY THIRD PARTY, INCLUDING, WITHOUT LIMITATION, ANY PROFESSIONAL RESPONSIBILITY, CLAIMS, DEMANDS, INDEMNITY, EXONERATION OR LIABILITY ARISING FROM ANY CAUSE WHATSOEVER, REGARDLESS OF THE FORM OF THE ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, OR TO BE A WAIVER OF SUCH PROVISION IN THE FUTURE OR OF ANY OTHER PROVISIONS OR WAIVER OF ANY RIGHTS, INCLUDING INTELLECTUAL PROPERTY RIGHTS, OF THIRD PARTIES. (A) THAT THE PRODUCTS WILL BE FREE FROM INFRINGEMENT OR VIOLATION OF ANY RIGHTS, INCLUDING INTELLECTUAL PROPERTY RIGHTS, OF THIRD PARTIES. The express warranty herein fails of its essential purpose. The customer’s sole and exclusive remedies hereunder and the only liability of WP is expressly limited to the terms of the agreement. WP shall not be liable to the customer, any third party, including, without limitation, any professional responsibility, claims, demand, indemnity, exonerations or liability arising from any cause whatsoever, regardless of the form of the action, whether in contract, tort (including negligence), strict liability or otherwise, or to be a waiver of such provision in the future or of any other provisions or waiver of any rights, including intellectual property rights, of third parties. (B) THAT THE PRODUCTS WILL BE FREE FROM INFRINGEMENT OR VIOLATION OF ANY RIGHTS, INCLUDING INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES. The express warranty herein fails of its essential purpose. The customer’s sole and exclusive remedies hereunder and the only liability of WP is expressly limited to the terms of the agreement. WP shall not be liable to the customer, any third party, including, without limitation, any professional responsibility, claims, demand, indemnity, exonerations or liability arising from any cause whatsoever, regardless of the form of the action, whether in contract, tort (including negligence), strict liability or otherwise, or to be a waiver of such provision in the future or of any other provisions or waiver of any rights, including intellectual property rights, of third parties.

10. EXPORT RESTRICTIONS: Customer shall obtain all licenses, permits and approvals required by any government and shall comply with all applicable laws, rules, policies and procedures of the applicable government and other competent authorities. Customer will not sell any WP intellectual property to any third party, or transfer, assign or otherwise transfer, to others, or sell, export or re-export, without first obtaining any license required by the applicable government. WP will not sell or otherwise transfer to, or made available for use by or for, any entity that is engaged in the design, development, production or use of nuclear, biological or chemical weapons or missile technology.

11. RIGHTS IN INTELLECTUAL PROPERTY AND TOOLS: All right, title and interest in inventions, discoveries, inventions, discovered improvements, developments, tools, apparatus programs and related documentation, any intellectual property fixed in any tangible medium of expression, mask works, or other forms of intellectual property, whether or not subject to statutory protection, which are made, created, developed, written, conceived or first reduced to practice by WP, shall be owned by and shall vest in WP. Customer agrees not to remove, alter, erase, deface or cover over any markings on the Product or its packaging.

12. GENERAL TERMS: This Agreement may only be modified by a written document executed by authorized representatives of WP and Customer.

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