

All orders received by Phoenix Infrared Incorporated ("Phoenix Infrared") are expressly conditioned upon the following conditions of sale:

1) Acceptance

Any additional or different terms set forth in any purchase order or other communication from Buyer are objected to and not binding upon Phoenix Infrared unless and until accepted in writing by an authorized representative of Phoenix Infrared.

2) Pricing

The prices of goods will be Phoenix Infrared's prices in effect on the date of shipment. Prices are subject to change without notice and are exclusive of all federal, state, local, and foreign taxes of any kind, whether or not invoiced by Phoenix Infrared. Shipments will be made using Buyer's shipping account or applicable freight charges will be added to each invoice. All excise, privilege, occupation, sales, use, personal property and other taxes (whether federal, state, local, or foreign) applicable to the sale, purchase, storage, use, or ownership of the goods, and the payment or collection of which Phoenix Infrared is liable, shall be paid by Buyer in addition to the price of the goods, whether or not the additional charges are reflected on Phoenix Infrared's invoice. Phoenix Infrared is required to charge applicable sales and use taxes unless Buyer provides Phoenix Infrared with a tax exemption certificate.

2) Terms of Payment

Upon credit approval by Phoenix Infrared, payment terms shall be net thirty (30) days from the date of the shipment or other pre-negotiated terms. All payments must be in U. S. dollars. A finance charge of 1.5 percent per month (18 percent per year), or such lesser rate as may be the maximum rate permitted by law, may be assessed on all past due accounts. Phoenix Infrared reserves the right to require alternative payment terms including, letter of credit or payment in advance.

Phoenix Infrared may suspend performance under this agreement or any other agreement with Buyer until Buyer's account is current. Buyer shall pay all expenses incurred by Phoenix Infrared in collecting amounts due from Buyer, including attorney fees.

3) Delivery and Delay

Delivery of the goods shall be F.O.B. Phoenix Infrared's factory. Under no circumstances does Phoenix Infrared guarantee date of shipment. Unless otherwise specified by Phoenix Infrared, shipment will be made and title will pass F.O.B. point of shipment. Phoenix Infrared shall ship Products as it deems appropriate unless instructed otherwise in writing by Buyer.

Phoenix Infrared may ship all of the goods at one time or in portions from time to time. Phoenix Infrared shall have the right, but not the obligation, to determine the method of shipment and routing. Phoenix Infrared shall not be liable for damages resulting from any delay or failure to deliver goods caused in whole or in part by circumstances beyond Phoenix Infrared's control (including, but not limited to, casualty, labor trouble, accidents or unavailability of supplies or transportation), and the time for delivery shall be extended for the period of the delay. If Buyer causes or requests delay in the manufacture or shipment of goods, Buyer shall pay Phoenix Infrared for all costs, losses, and damages resulting from the delay. Phoenix Infrared shall not be required to ship the goods unless and until Buyer shall have paid in full the purchase price of all tooling that Phoenix Infrared shall have ordered for use in producing goods.

4) Cancellation

The Buyer may not cancel, terminate, suspend performance of, or issue a hold on, any Buyer order, without the prior written consent of Phoenix Infrared. Consent, if given, shall be upon terms that will compensate Phoenix Infrared for any loss, including, but not limited to, any work in process or services performed. Blanket orders terminated prior to fulfillment of the order shall be invoiced at the quantity discount for the actual quantity delivered (bill back); finished goods allocated to the blanket order will be invoiced at the price set forth in the blanket order. Custom or unique product will be invoiced to recover Phoenix Infrared's material, labor, overhead, SG&A and profit for work in process. Finished goods will be invoiced at the contract price.

5) Financial Conditions

If Phoenix Infrared determines in good faith that the financial condition of Buyer at any time does not justify the continuation of production or shipment on the terms of payment originally specified, Phoenix Infrared may require full or partial payment in advance. In the event of Buyer bankruptcy or insolvency, Phoenix Infrared shall be entitled to cancel any outstanding order and shall receive reimbursement for its cancellation charges.

6) Standard Warranty

Phoenix Infrared warrants to the Buyer of each product of Phoenix Infrared's own manufacture ("Product") that each Product will be free from defects in materials and workmanship subject to the following conditions: The obligations of Phoenix Infrared under this Standard Warranty shall be limited to either, at the option of Phoenix Infrared: (1) the replacement or repair of any Product upon the shipment of such Product, freight prepaid by Buyer to the Phoenix Infrared factory; or (2) the provision to

Buyer of a credit against future purchases in an amount equal to the purchase price of the defective Product.

All claims under this Standard Warranty must be made within 3 months after the date on which the Product was delivered to Buyer. In the case of a replacement or repair of a Product, Buyer shall only ship a defective Product to Phoenix Infrared after an authorized representative of Phoenix Infrared has provided a Return Materials Authorization (RMA) number for such warranty claim. Returns will be subject to a 30% restocking fee. With respect to such returns, Buyer is solely responsible for properly packaging any Product to be returned to Phoenix Infrared under this Standard Warranty.

Phoenix Infrared will not be responsible for replacing or repairing any Product damaged while in transit to Phoenix Infrared due to faulty or deficient packaging. This Standard Warranty shall be void and shall not apply with respect to any Product which, upon inspection by Phoenix Infrared, shows evidence of damage as a result of abuse, misuse, mishandling, accidental damage, alteration, negligent handling, or improper installation or application, or as a result of alteration or other causes beyond the control of Phoenix Infrared.

THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE DESCRIPTION CONTAINED HEREIN. THIS WARRANTY VOIDS AND EXCLUDES ANY AND ALL OTHER WARRANTIES OR REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED OR ARISING UNDER ANY LAW, RELATING TO THE GOODS, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR ANY PARTICULAR PURPOSES. NO PERSON, FIRM, OR CORPORATION IS AUTHORIZED TO ASSUME ON BEHALF OF PHOENIX INFRARED ANY ADDITIONAL OBLIGATION OR LIABILITY NOT EXPRESSLY PROVIDED HEREIN, EXCEPT IN A WRITING DULY EXECUTED BY AN OFFICER OF PHOENIX INFRARED.

7) Limitation of Liability

In no event shall Phoenix Infrared be liable for any incidental or consequential damages. The liability of Phoenix Infrared on any claim of any kind shall in no event exceed the price of the Product which gives rise to the claim. Except as to title, all such liability shall terminate upon expiration of the warranty period of the Product. The invalidity of any of the previous paragraphs shall not affect the remainder of this paragraph or any other paragraph in this section.

8) Export Restrictions

Customer shall obtain all licenses, permits and approvals

required by any government. Customer shall not transmit, export or reexport, directly or indirectly, separately or as part of any system, the Products or any technical data (including processes and services) received from Phoenix Infrared, without first obtaining any license required by the applicable government, including, without limitation, the United States Government and/or any other applicable competent authority. Customer also certifies that none of the products or technical data supplied by Phoenix Infrared under this Agreement will be sold or otherwise transferred 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.

9) Rights in Intellectual Property Rights

All right, title and interest in and to any inventions, discoveries, improvements, methods, ideas, and other and related documentation, or other forms of intellectual property, which are made, created, developed, written, conceived or first reduced to practice by Phoenix Infrared solely, jointly or on its behalf, in the course of, arising out of, or as a result of Phoenix Infrared's work performed under an order, shall belong to and be the sole and exclusive property of Phoenix Infrared. Customer agrees not to reverse engineer all or any portion of any Product nor allow or assist others to do so.

10) Patent Infringement

Buyer shall hold Phoenix Infrared harmless against any expense or loss resulting from infringement of patents or trademarks arising from compliance with Buyer's designs or specifications.

11) Jurisdiction

The validity, performance, and all matters relating to the interpretation and effect of this agreement shall be governed by the laws of the Commonwealth of Massachusetts.