



### Standard Terms and Conditions of Sale

The following terms and conditions shall apply to all sales or services provided by Panavision Imaging, LLC ("Seller"). Acceptance by Seller of any offer to purchase is expressly limited to and conditioned upon the exact terms and conditions contained herein. It is a condition of Seller's acceptance that any deletion, addition, or amendment of the terms and conditions below (whether contained in a Buyer's purchase order, invoice, or other communication) shall have no effect and shall not constitute any part of a contract of purchase and sale without Seller's express written approval

- 1) **Price:** Prices as specified in product price sheets, as posted on the web-site, or otherwise presented are subject to change without notice. Price is set at time of order.
- 2) **Title and Delivery:** Products shall be delivered F.O.B., or in the case of international delivery shall be Ex-works, at Seller's designated facility. Title to products and risk of loss or damage to the products shall pass to Buyer upon Seller's delivery of products to a carrier for shipment to the Buyer. Buyer shall bear all transportation, insurance, and other expenses associated with delivery of products to Buyer's facility.
- 3) **Time of Delivery:** Seller shall not be liable for any loss or expense (including consequential, incidental, or otherwise) incurred by Buyer or Buyer's customers as a result of Seller's failure to meet a specified delivery schedule. Buyer's sole remedy for Seller's failure to meet a delivery schedule shall be cancellation of the order. However, Seller's time for making deliveries shall be extended for reasonable amounts of time based upon reasonable delays due to causes beyond the reasonable control of the Seller. Seller shall not be charged with any liability for delay or non-delivery when due to delays of suppliers, acts of God or the public enemy, compliance in good faith with any applicable foreign or domestic governmental regulation or order whether or not it proves to be invalid, fires, riots, labor disputes, unusually severe weather, or any other cause beyond the reasonable control of Seller. To the extent that such causes actually delay deliveries on the part of the Seller, the time for performance by Seller shall be extended for a reasonable period of time, taking into account the nature of the delay.
- 4) **Customer Furnished Materials:** Materials, tools, dies, and other property furnished to Seller by Buyer shall be at Buyer's risk and expense.
- 5) **Product Changes:** Seller reserves the right to make product modifications or to discontinue products or services without notice. Buyer is advised to obtain latest written specifications and other relevant information from Seller.
- 6) **Warranty and Limits of Liability:** Products supplied hereunder shall have a 30 day warranty period, effective from date of delivery. Should any failure occur under normal use in accordance with any documentation or specifications during the warranty period due to product defects and workmanship, Seller shall either replace the defective products or refund customers purchase price of products. Products damaged or caused to be defective through misuse, mishandling, or other means outside of the control of Seller are not covered under this warranty.

Seller's sole and exclusive liability hereunder shall be to replace products found to be defective within the warranty period or, upon failure of such remedy, to refund to the Buyer the purchase price of the products. In no event shall Seller or Seller's suppliers be liable to the Buyer for incidental or consequential damages whether in contract, tort, negligence, strict liability, or indemnity, including but not limited to loss of profits or revenue, loss of use or use of the equipment or any associated equipment, cost of substitute equipment, downtime costs, or other damages to the Buyer or its customers.

EXCEPT FOR THE LIMITED WARRANTY PROVIDED IN THE PRECEEDING PARAGRAPH, ALL PRODUCTS, SERVICES, AND DOCUMENTATION ARE PROVIDED "AS IS." SELLER SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO ALL OTHER WARRANTIES PERTAINING TO QUALITY OR PERFORMANCE, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Seller does not warrant that products shall perform in Buyer's products or services or for a particular purpose. It is the sole responsibility of Buyer to determine the fitness of Seller's product for a particular purpose. Seller services for semi-custom or custom contracts shall be at seller's best effort to meet design goals.

- 7) **Intellectual Property:** Ownership of all applicable copyrights, trademarks, trade secrets, patents, and other proprietary rights in the products, documentation, or specifications shall remain vested solely in Seller, and Buyer shall take no actions inconsistent with such ownership. Seller does not authorize, grant license to, or sell to Buyer any of Seller's intellectual property including but not limited to patents, copyrights, trademarks, trade secrets, designs, artwork or other proprietary rights through the purchase of Seller's products. Buyer agrees not to copy or reverse engineer, in whole or in part, any of Seller's products for any purpose whatsoever. Seller reserves all copyrights to artwork of Seller's products. Buyer may not copy in whole or in part any of Seller's artwork. Buyer may not utilize Seller's name or trade marks for any reason unless a separate, written agreement for such a purpose is executed by an officer or designated employee of Seller.
- 8) **Time Limitation on Action:** No action shall be brought for any breach of these terms, contract action, tort action, claim of negligence or any other claim more than one year after the accrual of the cause of action. The effect of this section is to shorten the statutes of limitations which might otherwise apply between the parties.

- 9) **Remedies and Damages:** If Seller breaches these terms, the exclusive maximum liability of the Seller, and Buyer's sole and exclusive remedy based on these terms, whether based on contract, tort, breach of warranty, or otherwise, shall not in any event exceed the contract price for the particular order of product involved.
- 10) **Applicable Law:** The validity, performance, and construction of this contract shall be governed by the laws of the State of New York. Any actions or proceedings brought hereunder shall have their venue in Cortland County, State of New York.
- 11) **Waiver:** The failure of Seller to enforce at any time any of the provisions, rights, or remedies of Seller under these terms, or to exercise any election or option provided herein, or to require any time or performance by Buyer or any of the provisions hereof, shall in no way be construed to be a waiver of such provisions, rights, or remedies, nor in any way to affect the validity of these terms or any part thereof, or the right of Seller thereafter to enforce each and every such provision, right, or remedy.
- 12) **Notices:** All notices and demands of any kind which either party may be required or desire to serve upon the other under these terms shall be in writing and shall be served by personal service or by mail at the designated address of the receiving party. All notices or demands made by mail shall be certified or registered mail, return receipt requested.
- 13) **Validity:** In the event that any of the provisions of this agreement shall be held to be unenforceable by a court of other tribunal or competent jurisdiction, the remaining portions of this agreement shall nevertheless remain in full force and effect.
- 14) **Cancellation:** If Buyer shall terminate or cancel the order herein specified without good cause, Buyer shall pay to the Seller the following amounts: (1) the purchase order price for all items or services which have been completed in accordance with this order and not previously paid for and (2) the actual costs plus a reasonable profit, not to exceed the aggregate purchase price specified in this order, of work-in-progress and raw materials expended by Seller in furnishing the items or services under this order to the extent such costs are reasonable in amount and are properly allocated or apportioned under generally accepted accounting practices to the terminated portion of the order.
- 15) **Export:** Acceptance or delivery of purchase orders received originating outside of the United States or direct shipment of products outside of the United States are subject to applicable export laws of the United States.
- 16) **Entire Agreement:** This document, and any agreement in writing executed by both Buyer and Seller, constitute the entire agreement for Seller to supply products to Buyer. It supersedes all previous communications, representations, or agreements, either oral or written, with respect to the subject matter hereof. No representations or statements of any kind made by any representative of Seller which are not stated herein shall be binding on Seller. No addition to or modifications of any provisions of the contract shall be binding on Seller unless made in writing and signed by a duly authorized representative of Seller at the Seller's principal place of business at Syracuse, New York. No course of dealing or usage of trade or course of performance shall be relevant to explain or supplement any term expressed in this contract.
- 17) **Payment Terms:** All payments due Seller shall be paid within 30 days of invoice or as otherwise indicated. A monthly late payment penalty shall be charged on delinquent accounts at the rate of 1 1/2 percent of the unpaid principal balance per month beginning on the first day of the month following the date on which payment is due. Additionally, any and all legal and collection fees incurred by Seller shall be the responsibility of and assessed to the Buyer.
- 18) **Independent Contractor:** The relationship of the parties is that of independent contractors and neither party shall have authority to bind the other party.
- 19) **Indemnification:** The Buyer shall hold Seller harmless, indemnify, and defend its officers, employees, managers, owners, and agents from and against all liabilities, losses, damages, costs, suits, judgments, and claims by or on behalf of any person or entity or government body resulting from Buyer's actions or omissions, or alleged liability in tort, breach of contract or warranty or infringement, or by reason of Buyer's use of Seller's premises, or from products or services supplied by Seller under this order except to the extent due to defects in the products when furnished by Seller.
- 20) **Restrictions on Use:** Seller has no control over use of products and accordingly Seller does not represent or warrant that application or use of the product is free of patent or other infringement claims, and Seller does not assume any such liability for use or application of its products. Seller assumes no liability for user applications, designs, products or information. Buyer agrees not to settle any infringement claims resulting from use of products, should any occur, without the express consent of Seller. SELLER PRODUCTS ARE NOT DESIGNED, AUTHORIZED, OR WARRANTED FOR USE IN LIFE SUPPORT DEVICES OR SYSTEMS, OR ANY OTHER CRITICAL APPLICATION WHICH MAY INVOLVE DEATH, INJURY, PROPERTY OR OTHER DAMAGES. FURTHER, SELLER EXPRESSLY FORBIDS THE USE OF ITS PRODUCTS IN THE FOLLOWING APPLICATIONS: (I) COLOR MATCHING OR MEASURE OF COLOR FOR OPACITY AND DENSITY ATTRIBUTES IN THE 360nm TO 860nm SPECTRUM, AND (II) AREA X-RAY IMAGING. USE OF THE PRODUCT IN VIOLATION OF ANY OF THE FOREGOING RESTRICTIONS IS AT THE SOLE AND FULL RISK OF THE BUYER AND IT'S END-USERS, AND BUYER AGREES TO INDEMNIFY AND HOLD SELLER HARMLESS FOR SUCH UNAUTHORIZED USES.