

Sales Terms and Conditions – Commercial Sales (United States)

The following terms and conditions (the “Terms”) are applicable to the sale of products or services (“Products”) by Quantum Imaging Inc. and SCD.USA Infrared, LLC (“Company” or “Seller”) to any purchaser thereof (“You” or “Buyer”). These Terms together with any agreement, attachments and exhibits, specifications, drawings, notes, instructions and other information, whether physically attached or incorporated by reference constitutes the entire and exclusive agreement between Seller and Buyer.

1. CONTROLLING TERMS AND CONDITIONS. By placing an order with Seller for Products, Buyer’s acceptance of an order is an agreement to accept and to be bound by these Terms to the exclusion of any other terms or conditions not accepted by Seller in writing. This includes but is not limited to any pre-printed terms or conditions on Buyer’s purchase order or any purported nullification of these Terms by way of any purchase order, order communication, in any form. Buyer acknowledges that it has been advised that no agent, employee, representative or dealer of Seller has any authority to bind Seller to any affirmation, promise, representation, or warranty concerning any of the Products and, unless such affirmation, promise, representation, or warranty is specifically set forth in the agreement, it does not form a basis of this bargain and shall not be enforceable against Seller.

2. PURCHASE PRICE, TAXES, PAYMENT AND CREDIT. The purchase price includes the costs of standard packaging of the Products; but excludes: (a) transportation, customs duties, insurance or any other costs or fees that may apply to sale and delivery of the Products; and (b) any federal, state, municipal or other governmental tax applicable to the sale of Products to Buyer, if any. All such taxes shall be in addition to the purchase price and be paid by Buyer unless otherwise agreed to or required by law. Buyer acknowledges and agrees full purchase price shall be due and payable thirty (30) days after receipt of invoice unless prepayment is required. All past due payments bear interest at one and one half percent (1.5%) per month on the unpaid balance or the maximum allowed by law whichever is greater.

3. ACCEPTANCE. Upon Delivery by Seller, all Products are deemed accepted by Buyer five (5) days after receipt of delivery.

4. DELIVERY. All Products are shipped Ex-Works (INCOTERMS 2010) Seller’s plant. Delivery shall occur and risk of loss shall pass to Buyer upon delivery of Products to Ex-Works point. All shipping dates are reasonable commercial estimates and Seller has no liability for any delay in shipment.

5. LIMITED WARRANTY, EXCLUSIONS AND DISCLAIMERS.

A. LIMITED WARRANTY. SELLER WARRANTS THAT FROM THE DATE OF DELIVERY THROUGH THE END OF THE APPLICABLE WARRANTY PERIOD, THE PRODUCTS

WILL CONFORM TO SELLER’S PUBLISHED SPECIFICATIONS AT TIME OF SALE AND BE FREE FROM DEFECTS IN MATERIALS AND WORKMANSHIP, UNDER PROPER USE AND SERVICE, IN ACCORDANCE WITH THE WARRANTY STATEMENT PUBLISHED BY SELLER IN EFFECT AT THE TIME OF DELIVERY OF THE PRODUCT. Warranty statements can be found at WWW.SCDUSA-IR.COM.

Seller’s sole liability shall be discharged by replacing or repairing any part or parts which may prove defective under normal and proper use. In the event that a product is altered or modified by Buyer without Sellers written consent all warranties terminate immediately.

B. WARRANTY EXCLUSIONS AND DISCLAIMERS.

SELLER MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE (EVEN IF BUYER HAS NOTIFIED SELLER OF ITS INTENDED USE FOR THE PRODUCTS). SELLER FURTHER EXPRESSLY DISCLAIMS ANY WARRANTY OF THE PRODUCTS WHERE THE ALLEGED NONCONFORMITY IS DUE TO NORMAL WEAR AND TEAR, ALTERATION, MODIFICATION, REPAIR, ATTEMPTED REPAIR, IMPROPER USE, IMPROPER MAINTENANCE, NEGLECT, ABUSE, IMPROPER STORAGE, FAILURE TO FOLLOW ANY PRODUCT INSTRUCTIONS, DAMAGE (WHETHER CAUSED BY ACCIDENT OR OTHERWISE), OR ANY OTHER IMPROPER CARE OR HANDING OF THE PRODUCTS CAUSED BY ANYONE OTHER THAN SELLER OR SELLER’S EXPRESSLY AUTHORIZED DESIGNEE.

6. PRODUCT RETURNS. Products shall not be returned to Seller without its written consent. Return instructions can be found at WWW.SCDUSA-IR.COM. Seller shall pay the cost of returning to Buyer Products that are repaired or replaced under Warranty.

7. INTELLECTUAL PROPERTY. Except for the right to use the purchased Products for their intended purpose, and except as expressly set forth in Section 13, the sale of Products by Seller does not convey to Buyer or any other third party any license, implied or otherwise, under any Intellectual Property. The foregoing license is limited to the use of any Product containing the Software only in the manner authorized by Seller. Buyer may not sublicense the Software to any other entity nor assign its license rights. Nothing contained herein shall cause Buyer to acquire any right, title, or interest in the Software anywhere in the world, except as authorized herein.

This license shall continue until the license is terminated in accordance with the agreement, or for the useful life of the

Product in which the Software is embedded or of which the Software is an integral part. In the event Buyer transfers title to the Product containing the Software, this license shall transfer to Buyer's transferee.

8. LIMITATION OF LIABILITY. NOTWITHSTANDING WARRANTY REPAIR OR REPLACEMENT, SELLER ACCEPTS NO LIABILITY FOR ANY CLAIMS ARISING OUT OF OR RELATING TO THESE TERMS, THE PRODUCTS, OR THE CONTRACT EXCEEDING THE AMOUNT OF THE INVOICE FOR THE PRODUCTS UPON WHICH SUCH CLAIMS ARE BASED, INCLUDING BUT NOT LIMITED TO CLAIMS FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES, OR DAMAGES CLAIMS BY ANY THIRD PARTY, WHETHER OR NOT THE CLAIMS ARE BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, EVEN IF SELLER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITED LIABILITY AVAILABLE UNDER THIS SECTION SHALL TERMINATE ONE YEAR FROM DELIVERY, IF NOT SOONER TERMINATED.

9. GOVERNING LAW. ANY CLAIM, DISPUTE OR CONTROVERSY BETWEEN BUYER AND SELLER ARISING FROM OR RELATING TO THESE TERMS SHALL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE STATE OF COLORADO WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAW AND SHALL BE SUBJECT TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE STATE COURTS IN THE STATE OF COLORADO, COUNTY OF EL PASO. THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS IS EXPRESSLY EXCLUDED FROM THE INTERPRETATION OR ENFORCEMENT TO THESE TERMS. IN THE EVENT THERE IS ANY DISPUTE CONCERNING THE TERMS OF THE AGREEMENT OR THE PERFORMANCE OF ANY PARTY, THE PREVAILING PARTY SHALL BE ENTITLED TO REASONABLE ATTORNEY'S FEES AND COSTS.

10. CANCELLATION, TERMINATION AND SURVIVABILITY. Seller reserves the right, in its sole discretion, to decline or to cancel any order for any reason. Following Seller's acknowledgement of an order, the order may only be cancelled by Buyer with the express written consent of Seller and may be subject to a restocking fee and any applicable material, labor, service, or other costs and fees, at Buyer's sole discretion.

11. COMPLIANCE WITH LAWS. EACH PARTY SHALL COMPLY WITH EXPORT LAWS THAT ARE APPLICABLE EITHER TO THE INFORMATION OR PRODUCTS.

12. FORCE MAJEURE. Neither party shall be responsible for delays or failure in performance of the agreement (other than

failure to pay any amounts due) to the extent that such party was hindered in its performance by any act of God, civil commotion, labor dispute, unavailability or shortages of materials or any other occurrence beyond its reasonable control.

13. SOFTWARE LICENSE. If the Products contain or include Software from Seller, Seller grants Buyer a nonexclusive, perpetual license to use the Software only on and in conjunction with the Products. Buyer agrees that title remains with Seller (and its suppliers, if any) and Buyer shall not disassemble, decode, or translate the Software, or copy or modify the Software in any manner except for archival or back-up purposes in connection with the use of the Products. Buyer will maintain all proprietary marks on Software provided by Seller. Buyer may transfer this license if transferring the Products provided the transferee agrees to be bound by the restrictions of this license.

14. ASSIGNMENT. Buyer may not assign any right or delegate any duty under the agreement without the express written consent of Seller, which shall not be unreasonably withheld.

15. TRADEMARKS. Buyer agrees that it will not use in any manner unrelated to the agreement any name or trademark of Seller without the express written consent of Seller.

16. SEVERABILITY. If any of these Terms or part thereof is held to be invalid, illegal, or unenforceable by law, all other Terms and the parts of any Term not held to be invalid, illegal, or unenforceable, shall remain in full force and effect.

17. CONFIDENTIALITY. Each party shall treat all information received from the other party marked "Confidential" or reasonably obvious as to be confidential as it would treat its own confidential information.

18. ENTIRE AGREEMENT. The parties expressly acknowledge that these Terms are complete, are an essential part of the agreement, and supersede all prior negotiations, agreements and understandings of the parties regarding the subject matter of these Terms. These Terms may only be modified by the express written consent of Seller.

Incorporated by reference herein you can find any and all current Company Policies, Products, Warranties, and Notices via WWW.SCDUSA-IR.COM. The Terms in place at the time of this agreement govern this agreement.

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