

STANDARD TERMS AND CONDITIONS OF SALE

These terms and conditions of sale (these "Terms and Conditions") apply to all products and services, including without limitation lasers, laser-based systems, accessories, spares and other related products (collectively "Laser Products") sold by Rofin-Sinar Inc. ("Seller"), except as otherwise specifically provided in a document signed by Seller. Seller's quotations, together with these Terms and Conditions and any other documents expressly incorporated into a quotation, are referred to herein, and upon acceptance by Buyer constitute the "Contract."

WITHOUT LIMITING THE PRECEDING, SELLER'S QUOTATIONS ARE AN OFFER TO SELL PRODUCTS SUBJECT TO THESE TERMS AND CONDITIONS OF SALE. BUYER CAN ONLY ACCEPT THIS OFFER TO SELL BY ACCEPTING, UNCONDITIONALLY, THE EXPRESS TERMS OF THE QUOTATION INCLUDING THESE TERMS AND CONDITIONS. ANY PROPOSAL FOR ADDITIONAL OR DIFFERENT TERMS OR ANY ATTEMPT BY BUYER TO VARY IN ANY DEGREE ANY OF THE TERMS OF THE QUOTATION OR THESE TERMS AND CONDITIONS OF SALE, WHETHER THROUGH THE ISSUANCE OF A PURCHASE ORDER OR OTHERWISE, IS HEREBY OBJECTED TO AND REJECTED BY SELLER. IN SUCH CASE, NO CONTRACT IS FORMED, AND SELLER'S OFFER TO SELL IS WITHDRAWN.

1. **GOVERNING LAW:** This Contract is deemed made and performed in the State of Michigan and shall be interpreted under the Uniform Commercial Code and other laws of the State of Michigan in force on the date the Contract is formed, without regard to the conflicts of laws principles of the State of Michigan.
2. **PRICE; TAXES:** The Laser Products covered by this Contract shall be sold and invoiced at Seller's prices and charges as agreed to in this Contract or otherwise agreed to in writing by Seller and Buyer. Prices do not include sales, excise, use or other similar taxes, or customs duties or tariffs, now in effect or hereafter levied by reason of this Contract or the transactions contemplated under this Contract, all of which shall be paid by Buyer. In states where Seller is not currently responsible for withholding and remitting sales tax in the customer's state, the Buyer is responsible for calculating and remitting the appropriate taxes to the relevant taxing authority. In all other states, such taxes shall be assessed by Seller against Buyer at the time of invoice unless Seller has received a valid exemption certificate or other similar evidence of exemption from taxation in form satisfactory to Seller. All POs should explicitly state whether they represent Taxable or Non-Taxable transactions. Seller reserves the right to invoice such taxes at a later time if such exemption was or is asserted to be inapplicable or invalid, and Buyer indemnifies and holds Seller harmless from and against any and all penalties, fines, or other liabilities associated with Buyer's failure to pay taxes, duties, or other levies as required hereunder.
3. **PAYMENT TERMS; NO SETOFF:**
 - A. Payment terms are net 30 days from date of invoice, unless a different period is otherwise agreed to in writing by Seller. Buyer shall be liable for the price of all Laser Products substantially conforming to this Contract, notwithstanding that Buyer may not have accepted, or may have revoked acceptance of same. Buyer shall not be entitled to deduct, counterclaim or set off against the price of such Laser Products or any other amount owing under this Contract any claim or alleged claim arising out of this Contract or any other transaction with Seller.
 - B. If payment is not received by the due date, a service charge may, at Seller's discretion, be added at the rate of one and one-half percent (1.5%) per month (18% per year) or the maximum legal rate of interest, whichever is less, to unpaid invoices and other unpaid amounts from the due date thereof. If Seller retains a collection agency and/or attorney to collect overdue amounts, all collection costs, including attorneys' fees, shall be payable by Buyer upon demand by Seller.
 - C. Any remittances received by a bank or other depository of Seller in connection with this Contract will be received by such bank or other depository solely as a clearing agency. Such receiving bank or depository has no authority to determine whether or not the amount remitted constitutes payment in full. Remittances marked to indicate "payment in full" or other similar expressions may be deposited by such bank or depository notwithstanding such markings and such deposit shall not indicate Seller's acceptance of the remittance as payment in full and shall not otherwise be treated as an election by, or an impairment of any of the rights of, Seller unless expressly agreed in writing by Seller.
4. **SECURITY INTEREST; CREDIT:** In addition to any security interest granted by the UCC, including without limitation a purchase money security interest, Buyer hereby grants a security interest to Seller in all Laser Products and documents related thereto and proceeds and products therefrom to secure all obligations of Buyer to Seller, whether or not arising under the Agreement. Buyer shall sign financing statements evidencing the security interest as reasonably requested by Seller, or Seller may file a copy of the Agreement or portion thereof as a financing statement. Buyer grants Seller an irrevocable power of attorney to sign Buyer's name to a financing statement if necessary or convenient to perfect Seller's security interest. Buyer shall provide a landlord's waiver of any lien rights at the premises to which the Products are to be installed. In case of a default by Buyer, Seller may peaceably enter the premises of the Buyer and others to repossess or render inoperable all Products in which it has a security interest. Buyer shall not sell, exchange, transfer, convey, mortgage, pledge, hypothecate or grant a security interest in any Products or the proceeds thereof (including cash, accounts, contract rights, instruments and chattel paper) which are the subject to this Agreement if payment therefor shall not have been made in full to Seller.

Seller may, upon becoming insecure regarding Buyer's performance of its payment obligations under the Contract, limit or cancel the credit of Buyer as to time and amounts, and as a consequence, may demand payment in cash before delivery of any unfilled portion of this Contract, and may demand assurance of Buyer's due performance including without limitation demanding that one or more deposits, letters of credit or other assurance be provided by Buyer. Upon making such demand, Seller may suspend its performance under the Contract, including production, shipment and/or deliveries until Buyer has provided such assurance. If, within the period stated in such demand, but in no event longer than 30 days, Buyer fails to agree and comply with such different terms of payment, and/or fails to give adequate assurance of due performance, Seller may, in its sole discretion and without any requirement to do so, (1) by notice to Buyer, treat such failure or refusal as a repudiation by Buyer of the portion of this Contract not then fully performed, whereupon Seller may cancel all further deliveries and any amounts unpaid hereunder shall immediately become due and payable, or (2) make shipment under reservation of a security interest and demand payment against tender of documents of title. These rights are in addition to any and all other rights Seller has under this Contract, at law, or in equity, relating to Buyer's default in the performance of its obligations under this Contract.
5. **BUYER'S REPRESENTATIONS AND WARRANTIES:** Buyer hereby represents to Seller that Buyer is now solvent, that it has all requisite power and authority to enter into this Contract, that the execution, delivery and performance of this Contract does not and will not conflict with or result in a breach of any contract to which it is a party or by which its assets may be bound, and that no other person other than Seller has or will have a security interest in the Laser Products covered by this Contract until performance in full by Buyer of its payment obligations under this Contract. Buyer further agrees that each acceptance of delivery of the Laser Products sold under this Contract shall constitute the remaking of each of these representations at such time.

6. **DELAY; CHANGE:** Any change in delivery schedule and/or quantity which is made at Buyer's request may, in Seller's sole discretion, result in a price redetermination. Seller shall be under no obligation to honor such requested change. If Buyer reschedules within the 60 days immediately preceding the scheduled delivery Seller may also, in its sole discretion, impose an additional charge of one and one-half percent (1.5%) of the selling price per month for the period beyond the scheduled delivery. The applicable reschedule charge will be invoiced at the time such rescheduling is agreed to by Seller.
7. **CANCELLATION:** Buyer may cancel an order at any time prior to shipment by Seller by providing 30 day advance written notice to Seller; provided, however, that Buyer will be responsible for a cancellation charge of 20% of the price of the canceled Laser Products, plus the amount of all direct and indirect costs incurred by Seller with respect to the canceled order, including without limitation those incurred after receipt of any written cancellation notice.
8. **SEVERAL SHIPMENTS:** Seller may make delivery in installments and may render a separate invoice for each installment, which invoice shall be paid when due, without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve Buyer of its obligation to accept delivery of remaining installments. Each delivery shall be paid for on the due date, as provided in this Contract, without offset, defense or counterclaim and regardless of controversies relating to any delivered or undelivered Laser Products.
9. **TITLE; RISK OF LOSS; INSURANCE:** Title to each shipment of the Laser Products sold hereunder and risk of loss thereon, unless otherwise agreed to in writing by Seller, shall pass to Buyer when Seller or its agent delivers such shipment to a common carrier or licensed trucker consigned to Buyer or his agent, but such shipment shall remain subject to Seller's rights of stoppage in transit, rights of reclamation and other legal rights of Seller. If a strike, embargo, governmental action or any other cause beyond Seller's control prevents shipment or delivery to Buyer or his agent, or if shipping instructions for any shipment are not received before any shipment date, or if payment is to be made on or before delivery, title and risk of loss shall pass to Buyer as soon as the shipment has been set aside by Seller and invoiced to Buyer (subject to Seller's rights as an unpaid Seller) and payment shall be made in accordance with invoice as though the Laser Products had been shipped and accepted by Buyer and Seller shall be under no duty to carry insurance thereafter.
10. **CONSIGNED GOODS:** If any Laser Products provided by Seller hereunder are supplied on a consignment basis, then such consignment shall also be subject to a separate Consignment Agreement among Seller, Buyer and its consignee, in form and substance satisfactory to Seller.
11. **ACCEPTANCE:** Buyer or Buyer's agent may, at its expense, inspect the Laser Products at the place of manufacture. Buyer shall accept any tender of Laser Products which substantially conform to the description of the Laser Products delivered by Seller to Buyer. Buyer shall be deemed to have accepted the Laser Products tendered by Seller unless Buyer gives Seller notice in writing specifying the particular deficiencies in the Laser Products: (a) in the case of defects discoverable through visual inspection, 14 days after arrival of the shipment or (b) in the case of defects not discoverable through visual inspection, 30 days after arrival of the shipment. In the case of Buyer acceptance of non-conforming Laser Products, Buyer shall immediately notify Seller whether or not Buyer will continue to accept similarly non-conforming Laser Products and failure to do so shall constitute a waiver by Buyer of specification requirements for said Laser Products. In any event, when any Laser Product shall have been altered from its original state, Buyer shall be deemed to have accepted such Laser Products. Buyer's acceptance of Laser Products tendered under this Contract shall be final and irrevocable.
12. **DELIVERY:** Unless otherwise agreed in writing by Seller and Buyer, the Laser Products are sold FCA Seller's facility, Plymouth, Michigan or for drop shipments: FCA Seller's supplier shipping point or U.S. port of entry. Shipping method is Pre-Paid and Add (PP&A) to Buyer's invoice via Air Ride Van or "best way" (as appropriate) to be determined by Seller's Shipping Group, unless instructed otherwise by the Buyer. Should the Buyer require shipment to be Collect, with shipment arranged by their own shipping/logistics group, the Buyer's PO must state "collect" in the shipping instructions and also include a contact name, phone number and any collect shipment authorization information required to coordinate the equipment shipment. Except in the case of specially designed shipping containers supplied by Seller or otherwise agreed in writing by Seller, Seller shall ship all laser oscillators in "air ride" vans to avoid damage due to excessive shock. The only exception to this policy is made in the case of specially designed shipping containers supplied by the Seller. The Seller will not be responsible for any damage claims in connection with shipment by any other means, unless authorized in writing by Seller. **THE WARRANTY REFERRED TO IN PARAGRAPH 15 SHALL BE VOID SHOULD SHIPMENT BE EXECUTED BY ANY METHOD NOT AUTHORIZED BY SELLER.** In the event that any Laser Products are received by Buyer in a damaged condition, Buyer should cease unpacking such Laser Products, request an immediate inspection by the carrier responsible for delivery, and furnish the carrier's written report to Buyer's insurer and to Seller.
Where a delivery date is specified by Seller, that date reflects Seller's best estimate for the probable time required for completion of Buyer's order. Seller will use reasonable and diligent efforts to effect shipment on or before the date indicated. Seller shall not be liable, directly or indirectly, for any delay or failure in performance or delivery or inability to perform or deliver, including without limitation where such delay, failure or inability arise or results from any cause beyond Seller's control or beyond the control of Seller's suppliers or contractors, including, but not limited to, strike, boycott or other labor disputes, embargo, governmental regulation, inability or delay in obtaining materials. In the event of any such delay or failure in performance, Seller shall have such additional time within which to perform its obligations under this Contract as may reasonably be necessary under the circumstances; and Seller shall also have the right, to the extent necessary in Seller's reasonable judgment, to apportion fairly among its various customers in such manner as Seller may consider equitable Laser Products then available for delivery. If, as a result of any such contingency, Seller is unable to perform under this Contract in whole or in part, then, to the extent that it is unable to perform, this Contract shall be deemed terminated without liability to either party, but shall remain in effect as to the unaffected portion of this Contract, if any.
13. **SELLER'S REMEDIES:** If Buyer fails, with or without cause, to furnish Seller with specifications and/or instructions for, or refuses to accept deliveries of, any of the Laser Products sold under this Contract, or is otherwise in default under or repudiates all or any part of this Contract or any other contract with Seller or fails to pay when due any invoice under this Contract or any other contract with Seller, then, in addition to any and all remedies allowed by law or in equity, Seller, without notice, may do any or all of the following: (1) bill and declare due and payable all undelivered products under this Contract and/or any other contract between Seller and Buyer, (2) defer shipment under this Contract and/or any other contract between Buyer and Seller until such default, breach or repudiation is removed, (3) cancel any undelivered portion of this Contract and/or any other contract in whole or in part. Without in any way limiting the preceding, Buyer shall remain liable for all damages suffered or incurred by Seller in any such circumstances.
14. **START UP:** If the price for Laser Products includes assistance by Seller in starting up the Laser Products at Buyer's facility or training Buyer's personnel, Buyer is responsible for adequate and timely site preparation (including the maintenance of appropriate insurance) and the availability of its personnel. Installation or training time incurred by Seller in excess of the amounts expressly included in the sales price will be charged to Buyer at Seller's then-standard rates.

15. **WARRANTY:** Seller's warranty with respect to Laser Products is set forth in its WARRANTY POLICY, a copy of which is attached hereto and, by this reference, incorporated herein. Such warranty may be modified or expanded only through a writing signed by an authorized officer of Seller. SELLER'S WARRANTIES ARE EXPRESSLY LIMITED TO THOSE SET FORTH IN THE WARRANTY POLICY AND THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THOSE CONTAINED THEREIN; SELLER EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTY OF MERCHANTABILITY AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.
16. **INTELLECTUAL PROPERTY INDEMNITY:** Buyer will promptly notify Seller in writing of any claim asserted, lawsuit, or other action brought against Buyer alleging that Laser Products purchased under this Contract infringe one or more United States or foreign patents or other intellectual property or similar rights (a "Covered Claim").
- Seller will indemnify and defend Buyer against all Covered Claims and pay all damages and costs finally awarded against Buyer in conjunction therewith; provided, however, that Seller shall have sole and complete control over the defense of a Covered Claim, and Buyer shall cooperate with Seller in providing such defense. The indemnity of Seller under this Contract shall not extend to claims, suits or actions for infringement based upon the use of any Laser Products in combination with apparatuses, circuits or devices not furnished by Seller, based upon the use of any such combination, or based upon the application or use to which such Laser Products are put, including any application or process performed or facilitated by such Laser Products ("Excluded Claims"). Buyer shall not be entitled to indemnification or contribution from Seller with respect to any Excluded Claims, and Buyer will indemnify Seller against and defend all suits and pay all damages and costs asserted against Seller arising out of any such Excluded Claims. In addition, Buyer will indemnify Seller against and defend all suits and pay all damages and costs awarded against Buyer with respect to claims of infringement for Laser Products manufactured wholly or partially to Buyer's design or specifications.
- In addition to the foregoing and in conjunction with a Covered Claim, Seller shall have the right, in its sole discretion and at its expense, either (a) to procure for Buyer the right to continue using such Laser Products, (b) to replace such Laser Products with non-infringing products and services of at least equal function and quality, (c) to modify such Laser Products so that they become non-infringing, or (d) request the return of such Laser Products and refund to Buyer the purchase price thereof.
- THE FOREGOING EXPRESSES THE ENTIRE OBLIGATION AND LIABILITY OF SELLER WITH RESPECT TO COVERED CLAIMS. SELLER MAKES NO WARRANTY THAT LASER PRODUCTS ARE DELIVERED FREE OF THE RIGHTFUL CLAIMS OF ANY THIRD PARTY BY WAY OF PATENT OR OTHER INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT.
17. **CONFIDENTIALITY:** Any drawings, data, designs, software programs, technical information, trade secrets or other proprietary information supplied by Seller to Buyer in connection with the sale of any Laser Products shall remain Seller's property and be held in confidence by Buyer. Such information shall not be reproduced or disclosed to others without Seller's prior written consent. Notwithstanding the provisions of Paragraph 19 hereof, Buyer acknowledges that Seller would be irreparably harmed by the disclosure of such information in violation of this Contract and Seller shall be entitled to specific performance in the event of any breach or threatened breach of this Paragraph 17 by Buyer.
18. **LIMITATION OF SELLER'S LIABILITY:** IN NO EVENT SHALL SELLER BE RESPONSIBLE OR LIABLE TO BUYER FOR ANY LOSS OF USE, REVENUE OR ANTICIPATED PROFITS, OR FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, CONTINGENT, EXEMPLARY, OR PUNITIVE DAMAGES IN CONNECTION WITH ANY BREACH OF WARRANTY OR OTHER BREACH OF SELLER'S OBLIGATIONS UNDER OR IN ANY WAY RELATED TO THIS CONTRACT, EVEN IF SELLER HAS BEEN ADVISED BY BUYER OF THE POSSIBILITY THEREOF.
19. **COMPLIANCE WITH LAWS:** Buyer assumes responsibility for compliance with all U.S. federal, state and local laws relating to the sale and use of the Laser Products covered by this Contract, including without limitation all U.S. federal, state and local laws governing exports from the United States and/or any subsequent re-export of products, and including without limitation all federal, state, and local laws governing safety in the workplace.
20. **DISPUTE RESOLUTION:** In the event of any dispute arising out of or relating to this Contract, representatives of the parties shall meet promptly in a good faith effort to resolve the dispute without resort to arbitration or court proceedings. If the dispute is not resolved by the parties within thirty (30) days after the representatives' first meeting, then either party, by written notice to the other, may request mediation. Mediation shall be conducted in Wayne or Oakland County, Michigan, in accordance with the Commercial Mediation Rules of the American Arbitration Association. If mediation is not timely requested or does not end in resolution of the dispute, then the parties agree to finally and exclusively resolve the dispute through binding arbitration, to be conducted before a single arbitrator in Wayne or Oakland County, Michigan, in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitrator may only award or grant to the parties such remedies as a court of competent jurisdiction could award or grant within the locality where the arbitration takes place. Judgment upon the award rendered by the arbitrator may be entered in any court having proper jurisdiction. Notwithstanding the foregoing, Seller shall not be required to pursue mediation or arbitration under this Paragraph 20 in connection with claims brought by Seller against Buyer arising out of Buyer's failure to pay for any Laser Products in whole or in part.
21. **SERVICE OF PROCESS:** Buyer and Seller consent to service of process by personal delivery or by postage prepaid, certified U.S. mail, mailed to the address of such party set forth in this Contract.
22. **ASSIGNMENT:** This Contract and Buyer's rights and obligations hereunder may not be assigned, pledged, hypothecated or otherwise transferred by Buyer except with the prior written approval of Seller, which shall not be unreasonably withheld or delayed. Seller may assign this Contract and its rights and obligations hereunder to a third party, without the approval of Buyer being required.
23. **WAIVER:** Waiver by Seller of any provision of this Contract or of a breach by Buyer of any provision of this Contract shall not be deemed a waiver of future compliance with this Contract and such provision, as well as all other provisions of this Contract, shall remain in full force and effect.
24. **CLERICAL ERRORS:** Obvious stenographic and clerical errors contained in this Contract are subject to correction by Seller.
25. **AMENDMENT OR MODIFICATION:** This Contract may only be amended, modified, supplemented or canceled in a written document signed by Seller.
26. **HEADING AND DEFINITIONS:** The heading and definitions in this Contract are inserted for convenience only and shall not constitute a part hereof.
27. **SEVERABILITY:** If any provision of this Contract shall be held to be unenforceable or invalid, such provision shall be ineffective to the extent of such prohibition or invalidity, and the balance of this Contract shall be interpreted as if such provision were so excluded.
28. **INTERPRETATION:** Any interpretation of this Contract shall be construed consistently by and against both parties, and shall not be construed against the draftsperson hereof.