

Mirrorcle Technologies Terms and Conditions of Sale

The following terms and conditions of sale, (i) as they appear in this document and (ii) as they are amended and appear at www.mirrorcletech.com at the time of sale, govern the sale of all materials, goods or services (the “Products”) supplied by Mirrorcle Technologies, Inc. (hereinafter called “MTI”) to any purchaser thereof (hereinafter called “Buyer”) and apply notwithstanding any conflicting, contrary or additional terms and conditions in any quotation, confirmation form, acceptance invoice, bill of lading or other document or communication from Buyer. By purchasing the Goods, Buyer confirms that the terms and conditions apply to the Buyer’s purchase of the Goods, regardless of the form or terms of Buyer’s order. The terms and conditions set forth below and on the face or back hereof and as they appear on the MTI’s website at www.mirrorcletech.com, as the case may be, constitute all of the terms of this Agreement between Buyer and MTI. No course of prior dealings or performance between the parties or usage in the trade shall be relevant to supplement or explain any terms used in this Agreement. No modification or waiver of these conditions of sale shall be binding upon MTI unless approved by MTI in writing. These Terms and Conditions of Sale (“Terms”) govern all sales of Products by MTI to Buyer regardless of whether Buyer purchases the Products through the medium of written purchase orders or electronic orders via facsimile or EDI (collectively, “Purchase Orders”). Upon receipt by Buyer of an express acceptance by MTI or upon commencement of performance by MTI, these Terms, the face of the Purchase Order, as modified by MTI’s acceptance or order acknowledgment, become a binding contract between Buyer and MTI on the terms reflected in those documents (the “Sales Agreement”). In the event of a conflict between these Terms and the Purchase Order, these Terms prevail except where MTI has expressly agreed to the conflicting term(s) in the Purchase Order in MTI’s written acceptance or order acknowledgment. In the event of a conflict between the Purchase Order and MTI’s written acceptance or order acknowledgment, MTI’s written acceptance or order acknowledgment prevails. ANY CONFLICTING WARRANTIES, TERMS AND CONDITIONS IN THE PURCHASE ORDER OR ANY OTHER OF BUYER’S DOCUMENTS SHALL BE CONSIDERED MATERIAL ALTERATIONS, WILL BE OF NO BINDING EFFECT, AND ARE HEREBY SPECIFICALLY OBJECTED TO AND REJECTED BY MTI.

1. **TITLE.** Title to the Products shall pass at MTI's plant. MTI retains a security interest and right of possession in the Products until Buyer makes full payment of any sums in any way outstanding from the Buyer to MTI.
2. **TAXES.** Product prices are exclusive of, and Buyer shall pay, applicable sales, use, service, value added or like taxes, unless Buyer has provided MTI with an appropriate exemption certificate for the delivery destination acceptable to the applicable taxing authorities.
3. **PRICES AND PAYMENT.** All quotations shall expire sixty (60) days from date of issuance, unless otherwise set forth on the quotation or agreed in writing. Buyer shall make payment in full prior to or upon delivery by cashier's check, credit card, money order, or wire transfer, unless MTI approves Buyer for credit terms. Credit terms may be approved only for sales within the United States. If MTI approves Buyer's credit application, payment shall be due no later than thirty (30) days from the date of MTI's invoice. All sums not paid when due shall accrue interest daily at the lesser of a monthly rate of 3% or the highest rate

permissible by law on the unpaid balance until paid in full. Payments for orders placed in foreign countries shall be made in US Dollar. In the event of any order for several units, each unit(s) will be invoiced when shipped. Exceptions will be made for U.S. government purchase orders.

4. **ORDERS.** All orders are subject to acceptance by MTI. MTI's booking of an order shall constitute its acceptance of an order.
5. **DELIVERY.** Buyer shall pay all freight charges, applicable import duties, and other necessary fees and shall bear the risks of carrying out customs formalities and clearance. Orders are entered as close as possible to the Buyer's requested shipment date, if any. Shipment dates are scheduled after acceptance of orders and receipt of necessary documents. Claims for shipment shortage shall be deemed waived unless presented to MTI in writing within fifteen (15) days of shipment. Risk of loss and legal title to the goods shall transfer to Buyer for sales in which the end destination of the goods is outside of the United States immediately after the goods have passed beyond the territorial limits of the United States. For all other shipments, risk of loss for damage and responsibility shall pass from MTI to Buyer upon delivery to and receipt by carrier. All shipments are FOB origin. Any claims for shortages or damages suffered in transit are the responsibility of Buyer and shall be submitted by Buyer directly to the carrier.
6. **ACCEPTANCE OF GOODS.** Buyer shall inspect or test all goods immediately upon receipt of shipment. Buyer shall be deemed to have effected final acceptance of the goods at the earliest of (a) the fifteenth (15th) day after the date of shipment, unless written notice with any claim is received by MTI before such day, or, (b) the date when the goods are used or otherwise placed in operation. From and after any such acceptance, no allowances shall be made for claims other than for violation of MTI's warranty herunder.
7. **LIMITED WARRANTY.** MTI hardware Products are warranted against defects in materials and workmanship for six (6) months from the date MTI ships the Products to Buyer ("Delivery Date"). All software Products are licensed to Buyer under the terms of the appropriate Mirrorcle Technologies license or End-User License Agreement (EULA). For a period of sixty (60) days from the Delivery Date, MTI software Products (when properly installed on MTI hardware Products) (a) will perform substantially in accordance with the accompanying written materials, and (b) the medium on which the software product is recorded will be free from defects in materials and workmanship under normal use and service. Any replacement of a licensed software product will be warranted for the remainder of the original warranty period or sixty (60) days, whichever is longer. Buyer must obtain a Return Material Authorization (RMA) number from MTI before returning any Products under warranty to MTI. Buyer shall pay expenses for shipment of repaired or replacement Products to and from MTI. After examining and testing a returned product, if MTI concludes that a returned product is not defective, Buyer will be notified, the product returned at Buyer's expense, and a charge made for examination and testing. This Limited Warranty is void if failure of the Products has resulted from accident, abuse, misapplication, modification, improper calibration by Buyer, Buyer supplied third party software not

intended for use with the applicable MTI software or hardware, utilization of an improper hardware or software key or unauthorized maintenance or repair.

8. **PRODUCT LIFE CYCLE POLICIES.** The names of any of our products and their respective specifications are subject to change without notice for the sake of improvement or other economic or technical factors. MTI reserves the right to discontinue, alter the design, data or the specifications, of any product or related accessories, without prior notice. Customers are urged not to assume that materials cannot or have not changed or that a particular design would be available for an extended period of time outside of a special sales agreement specifying otherwise. Mirrorcle Technologies, Inc. reserves the right to discontinue production and delivery of products. Therefore, we cannot guarantee that all products listed on the web page, in catalogues, or in published materials will always be available.
9. **DISCLAIMERS.** MTI does not control the end use of its products, and the purchaser (our customers) are therefore responsible for fully testing the suitability of our components under extreme actual field use conditions, for the end use customer intend and reasonably expect to use them. The products are intended for use in ordinary opto-electronic experiments and R&D efforts. If any of these products are to be used in special applications requiring extremely high reliability, where product defects might pose a safety risk, Mirrorcle Technologies Inc. is not responsible for customers' systems. Mirrorcle Technologies Inc. assumes no responsibility for customers' product designs. All Mirrorcle products are sold with the understanding that customer has independently determined the suitability of such products for its purposes.

Though Mirrorcle Technologies Inc. has taken all possible precautions to ensure the quality and reliability of its products, improper use of products may result in bodily injury, fire, or similar accident. Please be advised that Mirrorcle Technologies Inc. accepts no responsibility for any infraction by users of its products on third party patents or industrial copyrights.

MTI does not warrant any components for a particular use or purpose, and shall not be responsible for any direct, indirect, incidental or consequential damages, loss of use or profits, or cost of procurement of substitute goods or services, in contract, tort or otherwise arising out of goods or in connection with the information contained herein.

Always consider MTI as either unfamiliar with the customer's particular application or as less familiar than the customer themselves. Due to this, the customer ultimately takes the responsibility of verifying the proposed solution(s) are suitable for their particular application. The customer is responsible to perform product validation testing in the application.

MTI makes no warranty, representation, or guarantee of product suitability for customer applications. Some applications requiring extreme reliability are incumbent on the customer to provide redundancy, protective circuitry and laser safety measures. No products are

designed for use in medical, life-saving, or life-sustaining applications, or any other application in which product failure could result in personal injury or death.

MTI, its associates, representatives, employees, and others acting on its behalf disclaim any and all liability for errors, inaccuracies, or incompleteness represented in datasheets, product specifications, internet website, or any other method of product disclosure.

10. **NO TRANSFER OF IP.** The intellectual property (“IP”) related to any and all of the Products sold to Buyer remain with MTI and no transfer of IP is implied and allowed for any of the Products to any Buyer. This applies both to all of the background IP developed prior to the receipt of the Purchase Order from the Buyer, as well as to all foreground IP which may be developed in MTI’s performance of the order including manufacture and delivery of the products. Buyer and MTI expressly agree and covenant that the sale of the products shall not be construed as granting any right, license, interest or claim of any nature in any trademark, service mark, patent, trade secret, invention, intellectual property right, or confidential information of CMI. Buyer agrees and covenants not to copy, reverse engineer or otherwise decompile the products for any commercial purpose.
11. **BUYER REMEDIES.** MTI's sole obligation (and Buyer's sole remedy) with respect to the foregoing Limited Warranty shall be to, at its option, return the fees paid or repair/replace any defective Products, provided that MTI receives written notice of such defects during the applicable warranty period. Buyer may not bring an action to enforce its remedies under the foregoing Limited Warranty more than six (6) months after the accrual of such cause of action.
12. **RETURN/CANCELLATION/CHANGE POLICY.** Buyer may return unwanted Products within twenty-one (21) days of the Delivery Date. Buyer shall pay a twenty percent (20%) restocking charge on any unwanted Products returned to MTI. No returns will be accepted after the twenty-one (21) day period has expired. Where special equipment or services are involved, Buyer shall be responsible for all related work in progress; however, MTI shall take responsible steps to mitigate damages immediately upon receipt of a written cancellation notice from Buyer. A Return Material Authorization (RMA) number must be obtained from MTI for return of any Products. MTI may terminate any order if any representations made by Buyer to MTI are false or misleading. Changes to orders shall not be binding upon, nor be put into effect by MTI unless confirmed in writing by MTI's appropriate representative. Custom made Products to Buyer’s specifications is not returnable.
13. **NO OTHER WARRANTIES.** EXCEPT AS EXPRESSLY SET FORTH ABOVE, THE PRODUCTS ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, AND NO OTHER WARRANTIES, EITHER EXPRESSED OR IMPLIED ARE MADE WITH RESPECT TO THE PRODUCTS. MTI DOES NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS REGARDING THE USE OF OR THE RESULTS OF THE USE OF THE PRODUCTS IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE AND DOES NOT WARRANT THAT THE OPERATION OF THE PRODUCTS WILL BE UNINTERRUPTED OR ERROR FREE. MTI EXPRESSLY DISCLAIMS ANY WARRANTIES NOT STATED HEREIN.

14. **NO LIABILITY FOR CONSEQUENTIAL DAMAGES.** The entire liability of MTI and its licensors, distributors, and suppliers (including its and their directors, officers, employees, and agents) is set forth above. To the maximum extent permitted by applicable law, in no event shall MTI and its licensors, distributors, and suppliers (including its and their directors, officers, employees, and agents) be liable for any damages, including, but not limited to, any special, direct, indirect, incidental, or consequential damages, expenses, lost profits, lost savings, business interruption, lost business information, or any other damages arising out of the use or inability to use the Products. Buyer acknowledges that the applicable purchase price or license fee for the Products reflects this allocation of risk.
15. **WARNING:** (1) MTI PRODUCTS ARE NOT DESIGNED WITH COMPONENTS AND TESTING FOR A LEVEL OF RELIABILITY SUITABLE FOR USE IN OR IN CONNECTION WITH SURGICAL IMPLANTS OR AS CRITICAL COMPONENTS IN ANY LIFE SUPPORT SYSTEMS WHOSE FAILURE TO PERFORM CAN REASONABLY BE EXPECTED TO CAUSE SIGNIFICANT INJURY TO A HUMAN. (2) IN ANY APPLICATION, INCLUDING THE ABOVE, RELIABILITY OF OPERATION OF THE SOFTWARE PRODUCTS CAN BE IMPAIRED BY ADVERSE FACTORS, INCLUDING BUT NOT LIMITED TO FLUCTUATIONS IN ELECTRICAL POWER SUPPLY, COMPUTER HARDWARE MALFUNCTIONS, COMPUTER OPERATING SYSTEM SOFTWARE FITNESS, FITNESS OF COMPILERS AND DEVELOPMENT SOFTWARE USED TO DEVELOP AN APPLICATION, INSTALLATION ERRORS, SOFTWARE AND HARDWARE COMPATIBILITY PROBLEMS, MALFUNCTIONS OR FAILURES OF ELECTRONIC MONITORING OR CONTROL DEVICES, TRANSIENT FAILURES OF ELECTRONIC SYSTEMS (HARDWARE AND/OR SOFTWARE), UNANTICIPATED USES OR MISUSES, OR ERRORS ON THE PART OF THE USER OR APPLICATIONS DESIGNER (ADVERSE FACTORS SUCH AS THESE ARE HEREAFTER COLLECTIVELY TERMED "SYSTEM FAILURES"). ANY APPLICATION WHERE A SYSTEM FAILURE WOULD CREATE A RISK OF HARM TO PROPERTY OR PERSONS (INCLUDING THE RISK OF BODILY INJURY AND DEATH) SHOULD NOT BE RELIANT SOLELY UPON ONE FORM OF ELECTRONIC SYSTEM DUE TO THE RISK OF SYSTEM FAILURE. TO AVOID DAMAGE, INJURY, OR DEATH, THE USER OR APPLICATION DESIGNER MUST TAKE REASONABLY PRUDENT STEPS TO PROTECT AGAINST SYSTEM FAILURES, INCLUDING BUT NOT LIMITED TO BACK-UP OR SHUT DOWN MECHANISMS. BECAUSE EACH END-USER SYSTEM IS CUSTOMIZED AND DIFFERS FROM MTI'S TESTING PLATFORMS AND BECAUSE A USER OR APPLICATION DESIGNER MAY USE MTI PRODUCTS IN COMBINATION WITH OTHER PRODUCTS IN A MANNER NOT EVALUATED OR CONTEMPLATED BY MTI, THE USER OR APPLICATION DESIGNER IS ULTIMATELY RESPONSIBLE FOR VERIFYING AND VALIDATING THE SUITABILITY OF MTI PRODUCTS WHENEVER MTI PRODUCTS ARE INCORPORATED IN A SYSTEM OR APPLICATION, INCLUDING, WITHOUT LIMITATION, THE APPROPRIATE DESIGN, PROCESS AND SAFETY LEVEL OF SUCH SYSTEM OR APPLICATION.
16. **FORCE MAJEURE.** MTI shall be excused for any delay or failure to perform due to any cause beyond its reasonable control, including but not limited to acts of governments,

natural catastrophes, acts of Buyer, interruptions of transportation or inability to obtain necessary labor or materials. MTI's estimated shipping schedule shall be extended by a period of time equal to the time lost because of any excusable delay. In the event MTI is unable to perform in whole or in part because of any excusable failure to perform, MTI may cancel orders without liability to Buyer.

17. **LIMITED INDEMNITY AGAINST INFRINGEMENT.** If the Products are held to be infringing and the use thereof is enjoined, MTI shall, at its option, either (i) procure for the Buyer the right to use the Products, (ii) replace the Products with others which do not constitute infringement, or (iii) remove the infringing Products and refund the payment(s) made therefor by Buyer. The foregoing states the Buyer's sole remedy for, and MTI's entire liability and responsibility for, infringement of any patent, trademark, or copyright relating to the Products provided hereunder. **THIS LIMITED INDEMNITY IS IN LIEU OF ANY OTHER STATUTORY OR IMPLIED WARRANTY AGAINST INFRINGEMENT.**
18. **ACKNOWLEDGMENT/GOVERNING LAW.** Buyer acknowledges reading these Terms and Conditions, understands them and agrees to be bound by them. A waiver of any provision of this agreement shall not be construed as a waiver or modification of any other term hereof. With respect to all orders accepted by MTI in the United States, disputes arising in connection with these Terms and Conditions of Sale shall be governed by the laws of the State of California without regard to principles of conflicts of laws. With respect to all orders accepted by MTI outside the United States, disputes arising in connection with these Terms and Conditions of Sale shall be governed by the laws of the country and locality in which MTI accepts the order without regard to principles of conflicts of laws.
19. **SERVICES. Limited Warranty.** MTI warrants that Services will be performed in a good and workmanlike manner. Except as expressly stated in the preceding sentence, MTI makes no express or implied warranties with respect to the Services, including but not limited to (a) any warranty relating to third-party products or (b) any warranty concerning the results to be obtained from the Services or the results of any recommendation MTI may make, including without limitation any implied warranties concerning the performance, merchantability, suitability, non-infringement or fitness for a particular purpose of any of the deliverables or of any system that may result from the implementation of any recommendation MTI may provide. In order to receive warranty remedies, deficiencies in the Services must be reported to MTI in writing within sixty (60) days of completion of the Services. **Limitation of Liability.** MTI is not liable for any incidental, indirect, special, or consequential damages arising out of or in connection with the Services provided by MTI, including without limitation loss of use of the Products or any other software or data, including inability to achieve a particular result, even if MTI has been advised of the possibility of such damages or even if the damage is the direct result of an instruction or suggestion made by MTI. MTI's total liability arising out of or in connection with any event or series of connected events occurring in connection with the Services shall not exceed the amount of fees paid under the separate written agreement between Buyer and MTI. These provisions allocate the risks under the separate written agreement between Buyer and MTI. MTI's pricing reflects this allocation of risk and the limitation of liability specified herein. **High Risk Activities.** Buyer understands and agrees that MTI has not tested or certified its Services for use in high

risk applications including medical life support, nuclear power, mass and air transportation control, or any other potentially life critical uses and makes no assurances that the Services are suitable for any high risk uses. **Indemnification.** Buyer accepts responsibility for, and agrees to indemnify and hold MTI harmless from, any and all liability, damages, claims, or proceedings arising out of (a) the failure of Buyer to obtain the appropriate license, intellectual property rights, or any other permissions required to support any Products or MTI's performance of the Services, including but not limited to, the right to make any copies or reproductions of any Buyer-provided software or (b) any inaccurate representations regarding the existence of an export license or the eligibility for export of software or other materials without a license.

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