

## FLIR Systems, Inc. Terms and Conditions of Sale

**1. CONTRACT.** The terms and conditions exclusively govern this sale of goods and services (Goods) by FLIR to Buyer are: these printed terms and conditions, the terms on the face hereof (Front), and the documents referred to on the Front (the Contract), irrespective of whether or not Buyer's purchase order (Order) also contains terms and conditions. This Contract may only be modified in a writing signed both by Buyer's authorized representative and FLIR's authorized point of contact (POC) named on the Front (Modification).

**2. ACCEPTANCE OF CONTRACT.** This Contract shall be in effect when FLIR's POC issues written confirmation of acceptance of an Order (Acknowledgement).

**3. PRICE AND PAYMENT.** Unless the FLIR POC agrees otherwise in the Acknowledgement or in a Modification, FLIR's quoted prices for the Goods (Prices) exclude charges for carriage, taxes, and customs duties that either party is required to pay on the subject sale of Goods, but include costs of packaging the Goods. Buyer shall pay the Prices in US Dollars as directed in the Acknowledgement. If FLIR approves Buyer's credit, payment shall be thirty (30) days after the date of FLIR's invoice. FLIR may issue an Invoice for partial Delivery made. If Buyer does not pay timely all money due to FLIR, Buyer shall pay interest to FLIR on overdue amounts at a rate of one and one-half per cent (1 1/2%) of the unpaid balance monthly, and FLIR may cancel or reschedule Delivery. If Buyer is outside the United States, Buyer shall provide FLIR with an acceptable international irrevocable letter of credit (ILOC) for the Price. The ILOC shall be issued or confirmed by a major U.S. bank, with expiry date no earlier than thirty (30) days after final Delivery. ILOC payments (whole and partial) shall be made upon presentation of FLIR's invoice or warehouse receipt.

#### 4. RESERVED

**5. ACCEPTANCE OF GOODS AND INSPECTION.** In its sole discretion, if the Order contains a request from Buyer, FLIR will consider permitting Buyer to attend some or FLIR's entire final acceptance testing of Goods. If on FLIR premises, Buyer shall comply with all safety, security, and export related policies and rules. Whether or not Buyer attends AT, FLIR's certification that the Goods passed shall be deemed Buyer's irrevocable acceptance of the Goods (Acceptance). After Acceptance, defects in Goods, if any, shall be handled exclusively as provided in Section 8 (Warranty).

**6. DELIVERY; TITLE.** FLIR shall deliver Goods EXW FLIR's plant, (ex works Incoterms 2000) (Delivery). Title and full risk of loss, damage, and carrier delay pass to Buyer upon Delivery. If FLIR arranges transport or supervises loading of Goods at Buyer's request, it shall be a courtesy that shall not act modify or waive the EXW term of Delivery.

**7. DELIVERY AND DELAYS.** FLIR shall substantially meet the Delivery dates in the Acknowledgement. FLIR shall not be liable for any nonperformance, loss, damage, or delay due to war, acts of terrorism, riots, fire, flood, strikes or other labor difficulty, governmental actions, including without limit delivery requirements of a US Government agency rated order, acts of God, acts of the Buyer or its customer, transportation delays, inability to obtain necessary labor or materials from usual sources, or other causes beyond the reasonable control of FLIR. In such event, FLIR's performance shall be excused for a commercially reasonable time that is at least the length of time lost due to such delay.

**8. WARRANTY.** FLIR warrants that the Goods, at Delivery and for 365 days (Warranty Period), will conform to published specifications and be free from defects in materials, unless another Warranty Period is stated on the Front of the Acknowledgement. Buyer shall report any claimed defect in writing to FLIR promptly upon discovery and within the Warranty Period. FLIR shall elect either to repair or replace nonconforming Goods at the appropriate FLIR service center nearest to Buyer (Remedy).

This warranty does not extend to: (a) Goods repaired or modified in any manner by persons other than FLIR or FLIR's authorized designee; and (b) Goods that are defective due either to normal wear and tear, or Buyer's failure to properly store, install, operate or maintain the Goods. The Remedy is FLIR's sole obligation, and Buyer's exclusive recourse, for all claims of defects with respect to the Goods. If the Remedy is adjudicated insufficient, however, FLIR shall refund the Price paid without further liability to Buyer relating to the subject Goods. Buyer shall pay costs of returning Goods under a warranty claim, and FLIR shall pay the costs of sending Goods to Buyer after the Remedy is performed. SELLER MAKES NO OTHER WARRANTY OF ANY KIND WITH RESPECT TO THE GOODS OR SERVICES. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, and NONINFRINGEMENT ARE HEREBY DISCLAIMED.

**8. A. WARRANTY EXCLUSION FOR DIE.** If the product is a die, such as for a readout integrated circuit, or a wafer containing die, the product is considered free from defects if the product is designed to the requirements of the product specifications and has been tested and determined to satisfy the "A" grade die test criteria as established by the production test specifications. Seller provides no guarantee or assurance that the product, although graded to the "A" grade standard, will meet all customer requirements or will be free from all defects. In particular, the warranty of section 8 does not apply to die, which have been further processed by buyer other than in conformance with seller's recommendations or specifications.

**8. B. WARRANTY EXCLUSION FOR FOCAL PLANE ARRAYS.** Buyer agrees that it will not, nor permit others to: (a) use the Goods (including any related documentation) or any element thereof except as expressly permitted herein; (b) reverse engineer, decompile, deconstruct, disassemble, synthesize, or extract any element of and/or otherwise discover any source code, algorithms, circuits, structures, architectures, processes, methods or techniques embodied in the Goods; (c) modify, transfer, assign, pledge, sublicense, rent, lease, sell, resell, publicly perform, publicly display or create derivative works based on the Goods; or (d) disclose to any third parties any information marked, identified, accepted as confidential or proprietary, or may be deemed confidential or proprietary by its nature or by the circumstances of its disclosure embedded in or embodied by the Goods (including any related documentation and materials).

**9. CONFIDENTIALITY AND INTELLECTUAL PROPERTY.** All technical and commercial information FLIR discloses to Buyer, excluding public domain information or property in Buyer's possession in tangible form before receiving such information from FLIR (Confidential Information), is proprietary to FLIR and disclosed to Buyer in confidence for the limited purpose of assisting Buyer in the evaluation and use of the Goods (Purpose). Unless otherwise authorized in writing by the FLIR POC, Buyer shall not disclose Confidential Information, directly or indirectly, to any other person or use such Confidential Information, except for the Purpose. All Confidential Information shall be returned to FLIR on demand, and, in any event, when no longer needed by Buyer in connection the Purpose. In addition to FLIR's other remedies, Buyer agrees that any benefit or property derived by Buyer from any unauthorized use of Confidential Information shall be the sole and exclusive property of FLIR. Sale of Goods to Buyer does not convey a license, implied or otherwise, under any patent, copyright, trademark or trade secret in which FLIR has an interest, nor does it convey rights to any descriptive data, including but not limited to FLIR's drawings, schematics, software, secrets, processes, or tooling.

## FLIR Systems, Inc. Terms and Conditions of Sale

**10. PATENT INDEMNITY.** FLIR agrees at its expense to defend any suit alleging direct infringement instituted against Buyer (but not subsidiaries or customers of Buyer) and indemnify Buyer against any award of damages and costs based on a final adjudication that the Goods, at Delivery, directly infringed a third party's U.S. patent.. These indemnification obligations: (a) extend only to actual costs assessed; (b) do not apply to Goods made or modified to Buyer's specifications; and (c) are expressly conditioned upon: Buyer providing FLIR with written notice within ten days of Buyer's receipt of notice of such claim and allowing FLIR to assume control of the defense against such claims and the negotiation for their settlement; Buyer cooperating with FLIR during the subject proceedings and negotiations; and if FLIR determines that the Goods are or are likely to be the subject of direct infringement claims, Buyer permitting FLIR to obtain the right for Buyer to keep using the Goods, or obtain substitute goods, or modify the Goods to be noninfringing, or refund the Prices. The indemnity obligations stated in this section shall not apply if the infringement claims result from: (a) Buyer or Buyer's customer altering the Goods; (b) use of the Goods in a manner neither intended nor contemplated at the time of the sale; or, (c) Buyer's failure to use a modified or substitute good provided by FLIR pursuant to this section. These warranties are in lieu of all other warranties, express or implied with regard to any claim of infringement. ANY WARRANTY AGAINST INFRINGEMENT THAT MAY BE PROVIDED UNDER THE UNIFORM COMMERCIAL CODE AND/OR ANY OTHER COMPARABLE STATE STATUTE IS EXPRESSLY DISCLAIMED. To the extent that the Goods are manufactured to meet specifications provided by Buyer, Buyer shall hold harmless and indemnify FLIR for all claims of patent infringement relating to manufacture and sale of the Goods.

**11. LIMITATION OF LIABILITY.** FLIR shall in no event be liable for claims for consequential, incidental, indirect, special or punitive damages arising out of or relating to this Contract and the Goods, including but not limited to, claims based upon loss of use, lost profits or revenue, interest, lost goodwill, work stoppage, impairment of other equipment, environmental damage, loss by reason of shutdown or non-operation, increased expenses of operation, or procurement costs, and claims relating to service interruption, whether or not the claimed loss or damage is based on contract, tort (including negligence and strict liability) or otherwise. **FLIR's maximum liability under or in any way relating to this Contract shall not exceed the Prices paid for the Goods upon which the claims are based.** All such liability shall terminate one year from Delivery, if not sooner terminated.

**12. APPLICABLE LAW.** The Contract shall be governed by the law of the State of Oregon, exclusive of its conflicts of law principles. Any disputes arising out of this Contract that cannot be informally resolved shall be adjudicated exclusively in Oregon, USA, in any court of competent jurisdiction. This Contract is expressly conditioned on the exclusion of the application of the United Nations Convention on the International Sale of Goods.

**13. CANCELLATION; TERMINATION.** Buyer may only cancel this Contract if FLIR consents in writing, and FLIR may place conditions on consent, including a requirement that Buyer pay a restocking fee of twenty-five per cent of the Prices for standard Goods. For customer Goods, if FLIR permits cancellation of a Contract, FLIR may require Buyer to pay: (a) the Prices of Goods delivered; (b) material and labor costs incurred; (c) engineering services, if any; and (d) any other related costs and expenses, including without limit any that will arise from FLIR's cancellation of contracts with FLIR's suppliers. FLIR may terminate this Contract if Buyer breaches any material term, including without limit Buyer's payment obligations, and fails to cure the breach within seven (7) calendar days of receipt of FLIR's written notice of the breach. Obligations under paragraphs 3, 9, 10, and 11 shall survive cancellation or termination of this Contract.

**14. EXPORT LAWS.** The Goods may be subject to U.S. Government export laws and regulations. Buyer shall not export, re-export, or transfer the Goods or Confidential Information received from FLIR without first obtaining the appropriate US Government approvals, if any. FLIR will cooperate with Buyer to obtain any export licenses Buyer seeks, but obtaining such licensing shall be the exclusive responsibility of Buyer and FLIR makes no representation or warranty regarding the issuance of export licenses for the Goods.

**15. SOFTWARE LICENSE.** If Seller provides restricted software with the Goods, that restricted software is proprietary to Seller or Seller's suppliers. Seller grants Buyer a nonexclusive, perpetual license to use the software only on and in conjunction with the Goods. 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 except for archival or back-up purposes as necessary for use on and with the Goods. Buyer will maintain all proprietary marks on software provided by Seller. Buyer may transfer this license if transferring the Goods also and if the transferee agrees to comply with the restrictions of this license. Upon such transfer, Buyer's license terminates and Buyer shall destroy all copies of the software and related documentation in Buyer's possession.

**16. ASSIGNMENT.** Buyer may not assign rights or delegate duties under this Contract without first obtaining written consent from the FLIR POC, which shall not be withheld unreasonably.

**17. TRADEMARKS.** Buyer agrees that it will not use any name or trademark of FLIR Systems, Inc. unless authorized in writing to do so by the FLIR POC.

**18. U.S. TAXES.** The prices stated are exclusive of any federal, state, municipal, or other government tax that may be imposed upon the production, storage, sale, transportation, or use of the products described herein. The Buyer shall pay such taxes applied directly to the sale and levied prior to shipment from FLIR's Plant, or in lieu thereof the Buyer shall provide a tax exemption certificate acceptable to the taxing authorities. Unless a state issued tax exempt certificate is presented at the time of order placement, sales tax will be applied when shipping product to the following states: AL, AZ, CA, CO, FL, GA, IL, IN, KY, MA, MD, MI, MN, MO, NC, NJ, NY, OH, PA, SC, SD, TN TX, UT, VA, WA, and WI. Training is not taxable in any state. The U.S. Government is not taxable in any state. If taxable, Buyer shall include the appropriate amount and percentage on the Order for the Goods.

**19. U.S. GOVERNMENT ACQUISITION REGULATIONS.** When Buyer is a prime contractor or a subcontractor at a higher tier than FLIR for a U.S. Government prime contract, applicable Federal Acquisition Regulations and Defense Federal Acquisition Regulation Supplement clauses (collectively, FAR Clauses) may be incorporated into this Contract only if there are other FAR clauses that make the subject incorporation in this Contract mandatory. FLIR expressly rejects the incorporation of any FAR Clauses that do not meet the foregoing condition. In all incorporated FAR Clauses, the terms "Government" and "Contractor" shall be revised to identify properly the contracting parties under this Contract and effect the proper intent of the clause. Except with respect to termination for FLIR's default, Buyer shall exercise an incorporated FAR Clause against FLIR only if, and to the extent that, the subject FAR Clause is exercised against the Buyer by Buyer's customer.