

TERMS AND CONDITIONS OF SALE

1. ACCEPTANCE; COUNTEROFFER. These terms and conditions govern the transaction between Buyer and AKG Thermal Systems, Inc. ("Seller"). If these terms and conditions are inconsistent with any previously proposed by Buyer, Seller expressly rejects Buyer's terms, and this acknowledgment will constitute a counteroffer. Buyer will be deemed to have accepted these terms and conditions unless Seller is notified to the contrary in writing within five (5) days of Buyer's receipt of this acknowledgment. Unless specifically agreed between Buyer and Seller in writing, additional or different terms proposed by Buyer shall not become a part of the contract.

2. FINANCIAL TERMS, TAXES. Payment terms are net thirty (30) days. Beginning on the 31st day, a late fee of one and one-half percent (1½%) per month, not to exceed the maximum amount permitted by law, of the unpaid amount will be assessed. Buyer is responsible for paying any export duties, taxes, and tariffs levied by any governmental authority resulting from any international sale and delivery.

3. CREDIT; DEFAULT; SELLER'S RIGHT OF POSSESSION. An order is subject to credit approval. Seller may, at any time and at its sole discretion, limit or cancel credit approval of Buyer. In such circumstance, Seller may demand cash payment prior to production of an order, or before delivery. Buyer's failure to make payment within ten (10) days after demand may result in cancellation of the order and sale of all or any part of the undelivered goods, without notice, at public or private sale, with Buyer responsible for payment of any deficiency. If Buyer is in default, or breaches or repudiates the order, then in addition to any other remedies Seller may have, Seller may defer or cancel shipment until such default, breach or repudiation is remedied. The rights and remedies reserved to Seller in these terms and conditions are cumulative and in addition to all other legal or equitable remedies Seller may have.

4. PRICES. Prices are subject to change without notice. Quoted prices are intended only to indicate prices in effect on current sales. Quoted prices do not include any sales, use, gross income, occupation and similar taxes. All applicable taxes are the responsibility of Buyer. Sales are subject to a minimum order requirement of \$50.00. Standard lead time for delivery of goods is approximately two (2) weeks. Buyer may request a faster delivery time by contacting AKG's office; however, expedited delivery cannot be guaranteed.

5. SPECIFICATIONS, PACKAGING, SHIPMENT, DELIVERIES, BILL AND HOLD, CANCELLATION. All products manufactured by Seller are built according to Seller's specifications and drawings unless otherwise mutually agreed between Seller and Buyer in writing. Unless specified in writing by Buyer, Seller will select appropriate packaging. Shipment is made EXW (point of origin), as defined by INCOTERMS 2010, unless otherwise agreed to in writing between Seller and Buyer. The acceptance of shipment by a common carrier or the set aside of goods by Seller while awaiting Buyer's shipping instructions shall constitute delivery. For goods as to which payment is to be made on or before delivery, title passes only upon receipt of full payment. Receipt for delivery of goods shall be evidence of delivery and acceptance only and shall not constitute a waiver or modification of any terms of the contract. Goods held subject to Buyer's order or for which Buyer has failed to supply shipping instructions may be invoiced by Seller and are subject to the payment terms set forth in Section 2. Seller may charge Buyer storage for goods held more than thirty (30) days after notification by Seller that such goods are available for delivery. Seller may charge one (1%) percent of the price set forth on the relevant purchase order for each week in which the goods are stored, not to exceed ten (10%) percent of the purchase order. Goods invoiced by Seller and held at Seller's location will be at Buyer's risk and expense.

Buyer may cancel a purchase order unless such cancellation is within three (3) days of expected delivery. Cancellation within such three-day period will result in the imposition of a service charge of fifteen (15%) percent of the price set forth in purchase order. Partial delivery under an order will be accepted by the Buyer and paid for pro rata at contract prices and terms. In event there is more than one installment of goods shipped or stipulated to be shipped, the contract shall be deemed severable as to each installment shipped or stipulated to be shipped. Delivery or tender of any installment within fifteen (15) days of the time specified in an order shall be deemed timely. Thereafter shipment or tender prior to receipt of a written cancellation shall constitute timely delivery. Any delay in



delivery shall affect only the particular portion of the goods so delivered and shall not affect the balance of delivery or the balance of the contract. Any delivery not in dispute shall be paid by the due date as provided in Section 2 regardless of any dispute relating to other delivered or undelivered goods.

Where Buyer has declared or indicated a refusal to accept delivery in accordance with the contract, no tender of the goods is necessary; provided, however, Seller may, at its option, give notice in writing to Buyer that Seller is ready, willing and able to deliver in accordance with the provisions of the contract. Such notice shall constitute a valid tender of delivery.

6. CLAIMS. In the event of a claim that the goods delivered do not conform to the contract, such goods must be offered to Seller for examination and testing promptly, in materially the same condition as when delivered to Buyer. If Buyer fails to afford Seller full opportunity for examination and testing, Buyer shall not be entitled to any reduction, allowance or claim relating to such goods. If Buyer's non-conformance claim is substantiated, Seller will repair or replace any non-conforming goods as Buyer's sole remedy.

The retention of goods by Buyer without written objection for more than ninety (90) days or use of the goods by Buyer shall constitute unconditional acceptance, and thereafter no goods may be returned, nor allowance made, nor claims made, in respect of any purported non-conformance. UNDER NO CIRCUMSTANCES SHALL BUYER BE ENTITLED TO CLAIM CONSEQUENTIAL, INDIRECT AND/OR SPECIAL DAMAGES OF ANY NATURE FOR DEFECTIVE GOODS, FOR LATE DELIVERY OR NONDELIVERY, NOR MAY DAMAGES INCLUDE LOST PROFIT OR PROFIT OF ANY DESCRIPTION.

7. LIMITED WARRANTY/NEW PRODUCT WARRANTY. All heat transfer products manufactured by Seller are guaranteed against defects in material or workmanship for twelve (12) months of service after purchase or 2000 hours of service, whichever comes first. Any warranty will expire eighteen (18) months after the original ship date from Seller. Warranty for components such as fans, motors and other components when used on a Seller product will be in accordance with the component manufacturer. Warranty consideration is subject to inspection by Seller. Any product alleged defective during the warranty period must be returned to Seller unless otherwise agreed in writing. Any attempt at local repairs automatically cancels this warranty unless authorized in writing by Seller. Transportation charges will be prepaid by Buyer, unless otherwise agreed in writing by Seller. Returned products must be properly packaged. Adjustments cannot be made on any returned product which is damaged in transit due to poor packing. Seller is not responsible or liable for products damaged through carelessness, misuse or abuse. Careful inspection should be made by Buyer the customer before returning goods to Seller for warranty claims. If inspection by Seller reveals any goods to be defective, repair or replacement of the defective goods will be made without charge to Buyer, and Seller will pay transportation charges to return the repaired or replaced goods. If, after inspection, the goods are found not to be defective, an inspection and packaging charge will be assessed, and the goods will be returned to Buyer at Buyer's sole risk and expense. Seller's total liability for breach of warranty is limited to the repair or replacement of the defective goods. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOST PROFITS ARISING FROM OR IN ANY WAY CONNECTED WITH ITEMS SOLD TO BUYER BY SELLER, WHETHER ALLEGED TO ARISE FROM BREACH OF CONTRACT, EXPRESS OR IMPLIED WARRANTY, OR IN TORT. SELLER'S WARRANTY IS "AS IS" AND SELLER WILL BE BOUND BY NO OTHER WARRANTY, EXCEPT THOSE SET FORTH HEREIN. SELLER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, OR OF FITNESS FOR A PARTICULAR PURPOSE, OR ARISING OUT OF A COURSE OF DEALING, CUSTOM, USAGE OR TRADE, WHETHER IN CONTRACT OR IN TORT.

8. INDEMNIFICATION. Buyer shall defend, indemnify and hold Seller harmless from and against any and all claims, liabilities, loss, costs, damage, expense (including reasonable attorneys' fees and costs) or injury of any kind or nature whatsoever (including, but without limitation, property damage, personal injury or death, as well as



economic loss or damage) caused by, resulting from, arising out of, relating to, or occurring in connection with Buyer's actions with respect to the goods.

9. FORCE MAJEURE. Seller shall not be considered in default or be liable for any failure to perform or delay in performing to the extent that such failure or delay was caused by any reason beyond Seller's control, including an act of God, Seller's inability to obtain supplies and raw materials through Seller's normal and regular sources of supply by reason of governmental authority, laws, rules, regulations or orders allocating, rationing, curtailing, limiting or otherwise regulating the supply, use, availability, production, delivery or distribution of goods, supplies or raw materials, fire, explosions, hostilities of war, accidents, embargoes, striking or work stoppage, delay or inability to obtain labor, machinery and services through its usual sources, delays by carriers, or any other cause beyond Seller's control.