

## Otter Lake Technologies, LLC – Terms & Conditions of Sale

1. **APPLICABILITY.** Buyer agrees to purchase the items, products, and/or goods (“Goods”) documented in the accompanying Order Acknowledgement or similar sale documents (“Order Acknowledgement”) from Otter Lake Technologies, LLC (“OLT”). Unless a Buyer rejects an Order Acknowledgement, in writing to OLT, within three (3) days from the date that OLT sends it to the Buyer, the Buyer shall be deemed to have accepted the Order Acknowledgement and these terms and conditions of sale (“Terms”)(the Order Acknowledgement and Terms are collectively the “Agreement”), which shall govern the purchase of the Goods by the Buyer. The Agreement is the entire understanding and agreement between OLT and the Buyer, and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations, and written or oral communications. These Terms prevail over any of Buyer’s terms and conditions of purchase regardless of whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer’s order does not constitute acceptance of any of Buyer’s terms and conditions and does not modify these Terms. (OLT and Buyer may be referred to as a “party” or, collectively, as “parties.”)
2. **DELIVERY.** (a) The Goods will be delivered within a reasonable time after transmission of the Order Acknowledgement subject to availability of finished Goods, unless otherwise expressly stated in the Order Acknowledgement. An “Anticipated Delivery Date” is not a guaranteed delivery date, but rather is a reasonable expectation of when the Goods may be delivered. OLT shall not be liable for any delays, loss or damage in transit. (b) Unless expressly agreed upon by the parties in the Order Acknowledgement or otherwise agreed in writing by the parties, OLT shall deliver the Goods F.O.B. OLT’s manufacturing and/or production facility using OLT’s standard and/or discretionary methods for packaging and shipping such Goods. Buyer shall be responsible for all unloading costs and provide equipment and labor reasonably suited for receipt of the Goods at the Buyer’s facility. (c) OLT may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of the Order Acknowledgement or Buyer’s purchase order. (d) If for any reason Buyer fails to accept delivery of any of the Goods at the time prior to arrival at the Buyer’s facility, or if OLT is unable to deliver the Goods to the Buyer’s facility on such date because Buyer has not provided appropriate instructions, documents, licenses or authorizations: (i) risk of loss to the Goods shall pass to Buyer; (ii) the Goods shall be deemed to have been delivered; and (iii) OLT, at its option, may store the Goods until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses.
3. **NON-DELIVERY.** (a) The quantity of any installment of Goods as recorded by OLT on dispatch from OLT’s place of business is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary. (b) Any liability of OLT for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or adjusting the Order Acknowledgement respecting such Goods to reflect the actual quantity delivered
4. **SHIPPING TERMS.** Unless expressly agreed upon by the parties in the Order Acknowledgement or other written agreement, delivery shall be made Free on Board (“FOB”) OLT’s manufacturing and/or production facility.
5. **TITLE AND RISK OF LOSS.** Title and risk of loss passes to Buyer upon shipping of the Goods from OLT’s manufacturing and/or production facility (or, if applicable, any other location noted in the Order Acknowledgement or agreed upon in writing by the parties). As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to OLT a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision is a purchase money security interest under the Minnesota Uniform Commercial Code.
6. **AMENDMENT AND MODIFICATION.** The Order Acknowledgement and these Terms may only be amended or modified in a writing, which specifically states that it amends the Order Acknowledgement and/or these Terms, and is signed by an authorized representative of each party.
7. **INSPECTION AND/OR REJECTION OF NONCONFORMING GOODS.** (a) Buyer shall inspect the Goods within three (3) days of receipt (“Inspection Period”). Buyer will be deemed to have accepted the Goods unless it notifies OLT in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as required by OLT. “Nonconforming Goods” means only the following: product shipped is different than identified in the Order Acknowledgement. (b) If Buyer timely notifies OLT of any Nonconforming Goods, OLT shall, in its sole discretion, either: (i) replace such Nonconforming Goods with conforming Goods; or (ii) credit or refund the Price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at its expense and risk of loss, the Nonconforming Goods to OLT’s manufacturing and/or production facility, or as otherwise directed in writing by OLT. If OLT exercises its option to replace Nonconforming Goods, OLT shall, after receiving Buyer’s shipment of Nonconforming Goods, ship to Buyer, at Buyer’s expense and risk of loss, the replaced Goods to the Delivery Point. (c) Buyer acknowledges and agrees that the remedies set forth in Section 7(b) are Buyer’s exclusive remedies for the delivery of Nonconforming Goods. Except as provided under Section 7(b), all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to OLT.
8. **PRICE.** (a) Buyer shall purchase the Goods from OLT at the price(s) set forth in the accompanying Order Acknowledgement or, if not provided in the accompanying Order Acknowledgement, the prices set forth in OLT’s regular price list in force as of the date Buyer signs the accompanying Order Acknowledgement (the “Price(s)”). If the Price(s) should be increased by OLT before delivery of the Goods to a carrier for shipment to Buyer, then these Terms shall be construed as if the increased price(s) were originally inserted herein, and Buyer shall be billed by OLT on the basis of such increased price(s). (b) All Prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any Governmental Authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, OLT’s income, revenues, gross receipts, personnel or real or personal property or other assets.
9. **PAYMENT TERMS.** (a) Buyer shall pay all amounts due to OLT within thirty (30) days from the date that OLT sends Buyer an invoice for payment. Buyer shall make all payments hereunder by any payment method acceptable to OLT and all payments shall be made in US dollars. (b) Buyer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse OLT for all costs incurred in collecting any late payments or unpaid amounts, including, without limitation, attorneys’ fees. In addition to all other remedies available under these Terms or at law (which OLT does not waive by the exercise of any rights hereunder), OLT shall be entitled to suspend the delivery of any Goods or future Goods if Buyer fails to pay any amounts when due hereunder. Notwithstanding anything to the contrary, in the event that an Order Acknowledgement is terminated by the Buyer for any reasons prior to shipment, Buyer shall be responsible to pay OLT for costs incurred for labor and/or materials at the time of the termination.
10. **LIMITED WARRANTY.** (a) OLT warrants to Buyer that as of the date of shipment of the Goods to the Buyer, that such Goods will materially conform to OLT’s published specifications in effect as of the date of manufacture, and be free from defects in material and workmanship. (b) **EXCEPT FOR THE WARRANTY SET FORTH IN SECTION 10(a), OLT MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY (i) WARRANTY OF MERCHANTABILITY; OR (ii) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (iii) WARRANTY OF TITLE; OR (iv) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.** (c) Products manufactured by a third party (“Third Party Product”) may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Goods. Third Party Products are not covered by the warranty in Section 10(a). For the avoidance of doubt, **OLT MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PRODUCT OR GOOD, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.** (d) OLT shall not be liable for a breach of the warranty set forth in Section 10(a) unless: (i) Buyer gives written notice of the defect, reasonably described, to OLT within ninety (90) days of the time when Buyer discovers or ought to have discovered the defect; (ii) OLT is given a reasonable opportunity after receiving the notice to examine such Goods and Buyer (if requested to do so by OLT) returns such Goods to OLT’s place of business at OLT’s cost for the examination to take place there; and (iii) OLT reasonably verifies Buyer’s claim that the Goods are defective. (e) OLT shall not be liable for a breach of the warranty set forth in Section 10(a) if: (i) Buyer makes any further use of such Goods after giving such notice; (ii) the defect arises because Buyer failed to follow OLT’s oral or written instructions as to the storage, installation, commissioning, use, or maintenance of the Goods; or (iii) Buyer alters or repairs such Goods without the prior written consent of OLT. (f) Subject to Section 10(d) and Section 10(e) above, with respect to any such Goods as of the date of shipment, OLT shall, in its sole discretion, either: (i) repair or replace such Goods (or the defective part) or (ii) credit or refund the price of such Goods at the pro rata contract rate provided that, if OLT so requests, Buyer shall, at OLT’s expense, return such Goods to OLT. (g) **THE REMEDIES SET FORTH IN SECTION 10(f) SHALL BE THE BUYER’S SOLE AND EXCLUSIVE REMEDY AND OLT’S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 10(a).**
11. **LIMITATION OF LIABILITY.** (a) **IN NO EVENT SHALL OLT BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT OR NEGLIGENCE REGARDLESS OF**

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**WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT OLT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. (b) IN NO EVENT SHALL OLT'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT OR NEGLIGENCE EXCEED THE TOTAL OF THE AMOUNTS PAID TO OLT FOR THE GOODS SOLD HEREUNDER.**

(c) The limitation of liability set forth in Section 11(b) above shall not apply to liability resulting from OLT's recklessness or willful misconduct.

12. **COMPLIANCE WITH LAW.** Buyer shall comply with all applicable laws, regulations and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. Buyer shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Buyer. Buyer assumes all responsibility for shipments of Goods requiring any government import clearance. OLT may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.
13. **TERMINATION.** In addition to any remedies that may be provided under these Terms, OLT may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.
14. **WAIVER.** No waiver by OLT of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by OLT. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.
15. **CONFIDENTIAL INFORMATION.** All non-public information, that contains information valuable to OLT's business or operations (including but not limited to trade secrets), including but not limited to specifications, samples, designs, know-how, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by OLT to Buyer (whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement) (hereafter "Confidential Information"), shall only be used solely for the purpose of performing this Agreement and, furthermore, such Confidential Information shall not be disclosed or copied unless authorized in advance by OLT in writing. Upon OLT's request, Buyer shall promptly return all documents and other materials received from OLT, including but not limited to Confidential Information. OLT shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.
16. **FORCE MAJEURE.** OLT shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of OLT including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic or pandemic, lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.
17. **ASSIGNMENT.** Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of OLT. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations herein.
18. **RELATIONSHIP.** The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to bind the other party in any manner whatsoever. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.
19. **ARBITRATION, GOVERNING LAW, & VENUE.** Except for an action by OLT to seek injunctive relief to stop a breach or threatened breach of this Agreement, any disputes, controversies, or claims relating to this Agreement with Buyer, and/or any OLT Goods, shall be subject to arbitration before a neutral arbitrator selected by mutual agreement of the parties. If the parties cannot agree to an arbitrator within thirty (30) days of written

demand for arbitration, then, in accord with the Arbitration Rules of the American Arbitration Association, one will be appointed and such rules of the American Arbitration Association shall apply to the arbitration, subject to the terms in this Agreement. The parties agree that the arbitrator of any such dispute, controversy, or claim, has sole authority to determine whether this Section 19 is valid and/or the question of arbitrability. Except as provided in this Agreement, the arbitration filing fee and/or case management fee shall be paid by the party who initiated the claim or action. The arbitration shall be conducted in St. Paul, Minnesota. The arbitrator shall have authority to resolve discovery disputes and to hear and decide dispositive motions. The arbitrator shall be bound to the terms of this Agreement and issue a written opinion stating the essential findings and conclusions on which the arbitrator's award is based. Any arbitral award determination shall be final and binding upon the parties and judgment on the arbitrator's award may be entered in any court of competent jurisdiction. Any disputes, controversies, or claims relating to this Agreement shall be determined in accordance with the laws of Minnesota, without regard to choice of law provisions. (a) **Exceptions.** Notwithstanding Section 19, any disputes, controversies, or claims that cannot be arbitrated, pursuant to controlling law, are not subject to mandatory arbitration and, in that event and only that event, the parties agree that any lawsuit involving such disputes, controversies, or claims relating to this Agreement and/or Order Acknowledgement, shall be filed, maintained and litigated exclusively in the Second Judicial District Court of Minnesota or the United States District Court for Minnesota.

20. **NOTICES.** All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the Order Acknowledgement or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile or e-mail (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). To be effective, all notices to OLT shall also be sent by email to: info@otterlaketech.com.
21. **SEVERABILITY.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
22. **SURVIVAL.** Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Compliance with Laws, Confidential Information, Governing Law, Submission to Jurisdiction/Arbitration and Survival.
23. **INTELLECTUAL PROPERTY.** (a) As referred to in this Section, "Intellectual Property Rights" means all ideas, concepts, inventions, innovations, methods, improvements, processes, techniques, designs, drawings, know-how, data, development, and other intellectual property rights comprising or relating to: (i) Patents; (ii) Trademarks; (iii) internet domain names, whether or not Trademarks, registered by any authorized private registrar or Governmental Authority, web addresses, web pages, websites, and URLs; (iv) works of authorship, expressions, designs, and design registrations, whether or not copyrightable, including copyrights and copyrightable works, software, and firmware, data, data files, and databases and other specifications and documentation; (v) Trade Secrets; and (vi) all industrial and other intellectual property rights, and all rights, interests, and protections that are associated with, equivalent or similar to, or required for the exercise of, any of the foregoing, however arising, in each case whether registered or unregistered and including all registrations and applications for, and renewals or extensions of, such rights or forms of protection pursuant to the Laws of any jurisdiction throughout in any part of the world. (b) Buyer acknowledges and agrees that: (i) any and all OLT's Intellectual Property Rights are the sole and exclusive property of OLT or its licensors; (ii) Buyer shall not acquire any ownership interest in any of OLT's Intellectual Property Rights under this Agreement; (iii) any goodwill derived from the use by Buyer of OLT's Intellectual Property Rights inures to the benefit of OLT or its licensors, as the case may be; (iv) if Buyer acquires any Intellectual Property Rights, rights in or relating to any Goods (including any rights in any Trademarks, derivative works, or patent improvements relating thereto) by operation of Law, or otherwise, such rights are deemed and are hereby irrevocably assigned to OLT or its licensors, as the case may be, without further action by either of the parties; and (v) Buyer shall use OLT's Intellectual Property Rights solely for purposes of using the Goods under this Agreement and only in accordance with this Agreement and the instructions of OLT. (c) Among other things, Buyer shall not: (i) take any action that interferes with any of OLT's rights in or to OLT's Intellectual Property Rights, including OLT's ownership or exercise thereof; (ii) challenge any right, title, or interest of OLT in or to OLT's Intellectual Property Rights; (iii) make any claim or take any action adverse to OLT's ownership of OLT's Intellectual Property Rights; or (iv) engage in any action that tends to disparage, dilute the value of, or reflect negatively on the Goods or any OLT's Trademarks.