ILX LIGHTWAVE WARRANTY, TERMS, AND CONDITIONS

When referenced in a quotation, these terms and conditions constitute an offer by Seller. This offer becomes a binding contract between Seller and Buyer when Seller receives from Buyer a purchase order or other formal written acknowledgement to this Quotation.

1. TERMS OF CONTRACT. Any counteroffer or proposed addition to or supplement of the material terms and conditions of this Quotation are hereby expressly objected to and rejected. If this Quotation is responsive to a prior offer by Buyer, then this Quotation shall be deemed an acceptance of such offer limited to the material terms and conditions stated in this Quotation, and any additional or supplemental terms or any material variance from the terms and conditions of this Quotation are expressly objected to and rejected unless expressly accepted by Seller in a subsequent Quotation. Any non-material variance from the terms and conditions hereof by the Buyer shall not operate as a rejection of this Quotation. All orders are subject to credit approval.

2. PRODUCTS. Seller shall deliver to Buyer the products, including any documentation thereto, (except as otherwise set forth herein, the Products) described in the coversheet, subject to Buyer fulfilling Sellers credit requirements. For the purposes of Sections 8 (Limited Warranties) and 9 (Indemnification) hereof, the term Products shall exclude any third party materials therein.

3. SERVICES. Seller shall provide the services (Services) described in the coversheet, subject to the following exceptions: (a) problems caused in whole or in part by catastrophe or causes external to the Products; (b) problems caused in whole or in part by modifications, maintenance, repairs or other services performed by a party other than Seller; (c) problems resulting from any use that is not in accordance with the documentation for the Products; (d) defects or errors in the Products, or any component thereof, that only minimally reduce the efficiency or ease of use of the Products; (e) problems caused by the use of, or defects or malfunctions contained in, any equipment used in conjunction with the Products that is not provided by Seller; (f) failure of Buyer to use any replacement parts, repairs or corrections provided by Seller; and (g) in the event any equipment or component thereof is no longer available from the original manufacturer, Seller shall use reasonable efforts to acquire comparable equipment or a component thereof from an alternate source. Seller does not guarantee the availability of any equipment or component. Services for Products previously purchased under a prior contract are conditioned on Sellers prior inspection and Buyers payment therefore, and for Buyers payment of the costs and expenses of restoring the Products to proper operating condition. Buyer shall be responsible for all costs and any damages associated with relocation of the Products as part of the Services. Seller shall make commercially reasonable efforts to provide Services within any time estimates set forth herein, provided however, Seller hereby expressly disclaims any and all liability for any failure to meet such time estimates.

4. PRICE. Unless otherwise specified by Seller, Sellers price for the Products and Services set forth on the coversheet shall remain in effect for 60 days after the date of the Quotation. Such prices do not include, and Buyer shall pay for, any excise, sales, use or like taxes, and therefore such prices are subject to increase in the amount of any such tax (excluding tax on net income) that Seller may be required to collect or pay upon the sale or delivery of the Products and the performance of Services purchased hereunder. Prices are, and all payments shall be made, in U.S. dollars. Buyer shall pay Sellers reasonable expenses associated with the performance of Services and shall reimburse Sellers costs at Sellers applicable rates in responding to a call for Service which is found to be unrelated to the Products.

5. PAYMENT TERMS. Unless otherwise arranged, Seller shall invoice Buyer at the time of shipment of each installment of Products or at the end of each month during which Services are performed. Payments are due within 30 days of date of shipment for Products, and receipt of invoice for Services. Buyer shall make all payments as provided herein without regard to whether Buyer has made or may make any inspection of any Product delivered hereunder. Past due amounts bear interest at a rate of one and one half percent (1 1/2%) per month or at the maximum rate allowed by law, whichever is less. Seller reserves the right to cancel or reschedule deliveries of Products and performance of Services if Buyer fails to make any payment when due. Buyer shall be liable for all expenses attendant to collection of past due amounts, including attorneys fees.

6. TITLE. Seller shall retain title and bear the risk of loss until a shipment has been delivered to a common carrier, subject to a purchase money security interest retained by Seller in the Products sold and any proceeds Buyer receives from resale or lease thereof, until payment in full of the purchase price and related charges to Seller. Buyer agrees to execute financing statements and other documents as Seller reasonably requests, and acknowledges that this document constitutes a proper security agreement to be used in connection with any such financing statement. Seller is authorized to file one or more financing statements relating to all or any part of the Products without the signature of Buyer where permitted by law. A photocopy or other reproduction of this Quotation or any financing statement covering the Products or any part thereof shall be sufficient as a financing statement where permitted by law.

7. DELIVERY. Delivery of Products will be F.O.B. Sellers plant in Bozeman, MT. Performance of Services is subject to Sellers prior inspection, at Buyers cost and expense, of the Products at Buyers location. The parties shall agree on the location for performance of Services. Seller will use commercially reasonable efforts to deliver the Products and perform the Services in accordance with the specified delivery or performance date. However, Seller will not be liable for damages as a result of any delay in delivery or performance for any reason other than arbitrary refusal of Seller to perform. All shipments will be shipped by Seller freight collect, or if prepaid, such freight will be subsequently billed to Buyer, and Buyer will reimburse Seller for such freight as set forth herein. Unless otherwise specified by Buyer, packaging of shipments shall be in accordance with Sellers customary practices.

8. INTELLECTUAL PROPERTY RIGHTS. Buyer hereby recognizes that, as between Buyer and Seller, Seller retains all right, title and interest in all intellectual property rights in and to the Products. Buyer hereby assigns to Seller all intellectual property rights it may now or hereafter possess in any derivative works of and improvements to the Products and agrees to execute all documents, and take all actions, that may be necessary to effect such assignment. Buyer shall promptly notify Seller in writing upon its discovery of any unauthorized use or infringement of Sellers intellectual property rights in the Products. Seller shall have the sole and exclusive right to bring an infringement action or proceeding against any infringing third party, and, in the event that Seller brings such an action or proceeding, Buyer shall cooperate and provide full information and assistance to Seller and its counsel in connection with any such action or proceeding.

9. LIMITED WARRANTIES. Seller warrants to Buyer that (a) the Products shall be free from defects in material and workmanship for a period of one year from the date of shipment unless otherwise specified in the quotation. Buyers exclusive remedy and Sellers sole liability for any breach of the foregoing warranty shall be for Seller, at Buyers request within the warranty period by written notice specifying the defect, and at Sellers sole option, to repair or replace the defective Product or refund any amounts paid for the defective Product. In order to receive the warranty service, Buyer must return the defective Product within 30 days of notification from Buyer hereunder, freight prepaid. Title to such Product and risk of loss or damage with respect to such Product shall remain with Buyer unless and until Seller confirms the defect is not repairable, at which point Seller shall, at its option, deliver replacements for such defective Product or refund any amounts paid for such defective Product, and shall obtain title to the defective Product. If specified in the quotation and deemed necessary by the Seller, Seller shall provide on-site service by a company qualified technician for a period of 90 days from the date of shipment. These remedies are available only if Sellers examination discloses to Sellers satisfaction that such defects actually exist and were not caused by Buyers misuse, abuse, unauthorized modifications or disassembly, neglect, improper installation or testing, attempts to repair, or by accident, fire, third party materials or other hazard. In addition, this warranty does not apply to fuses, lamps, batteries or damage from battery leakage. Units repaired shall be warrantied for ninety (90) days from date of shipment or for the remaining balance of the initial warranty period, whichever is longer. Seller makes no representation or warranty that the Products supplied hereunder comply with any local laws or ordinances, and Buyer has the responsibility for compliance with local laws and ordinances, including obtaining all permits, licenses, authorizations or certificates required by any regulatory body for installation or use of the Products; and (b) the Services shall be performed consistent with generally prevailing professional and industry standards. Buyers exclusive remedy and Sellers sole liability for any breach of the foregoing warranty shall be the re-performance of the applicable Services, failing which Seller shall refund the portion of fees paid which relate to the specific non-conforming Services.

10. INDEMNIFICATION BY SELLER. Seller shall defend at its own expense any third party action against Buyer to the extent it is based on a valid claim of infringement of a United States patent by Products purchased and paid for hereunder (Claim), and shall pay those damages that are directly attributable to such Claim and are awarded in a final and unappealable judgment by a court of competent jurisdiction against Buyer, provided Buyer notifies Seller promptly in writing of any such action and prior related claims, cooperates fully with Seller at Sellers expense, and gives Seller sole control of the defense and any negotiations for settlement or compromise. Should any Product become, or in Sellers opinion be likely to become, the subject of a Claim, Buyer shall permit Seller, at Sellers option and expense, either (a) to procure for Buyer the right to continue using such Product; (b) replace or modify the same to become noninfringing; or (c) grant Buyer a credit less depreciation for use, damage, and obsolescence and accept its return (freight prepaid). Said depreciation shall be an equal amount per year over the life of the Product, which is agreed for purposes of this section to be 3 years from the date of shipment. However, Seller shall have no liability to Buyer for any Claim based upon (i) a portion of any Product not manufactured or developed by or on behalf of Seller; (ii) the use of the Products in combination with other products, equipment, devices, software, or data not supplied by Seller; or (iii) the combination, alteration or modification of any Product supplied hereunder if such Claim would have been avoided by the absence of such combination, alteration or modification. The foregoing states the entire liability of Seller with regard to patent infringement by the Products or any portion thereof.

11. INDEMNIFICATION BY BUYER. Except for Claims, Buyer shall indemnify, defend and hold Seller, its employees, directors, officers and agents (collectively, Seller Indemnities) harmless from any third party suit, claim or other legal action including any reasonable costs or legal fees thereby incurred by Seller Indemnities, arising from, or resulting out of or related to any use of the Products or any breach of this Agreement.

12. DISCLAIMER. The express warranties set out above are the only warranties made by Seller with respect to the Products and Services, and may only be modified or amended by a written instrument signed by a duly authorized officer of Seller. **THE EXPRESS WARRANTIES ABOVE ARE IN LIEU OF ALL OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.**

13. LIMITATION OF LIABILITY. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER FOR ANY DELAY IN PERFORMANCE, SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR INDIRECT DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF USE, LOSS OF REVENUE AND LOST DATA) ARISING OUT OF THIS QUOTATION (WHETHER FOR

BREACH OF CONTRACT, TORT, NEGLIGENCE OR OTHER FORM OF ACTION) OR ITS TERMINATION, AND IRRESPECTIVE OF WHETHER SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE. SELLERS TOTAL AGGREGATE LIABILITY UNDER OR DUE TO THIS QUOTATION SHALL NOT EXCEED THE PRICE PAID BY BUYER FOR PRODUCTS AND SERVICES GIVING RISE TO A CLAIM. IN NO EVENT SHALL THE SELLER BE LIABLE FOR BUYER SUPPLIED COMPONENTS. THE SELLER WILL TAKE REASONABLE PRECAUTIONS TO HANDLE BUYER SUPPLIED COMPONENTS IN A SAFE MANNER.

14. CONFIDENTIAL INFORMATION. All documentation, designs, drawings, samples, specifications and related data of Seller pertaining to the Products supplied by Seller in connection with this Quotation are the confidential information of Seller (Confidential Information). Buyer shall protect such Confidential Information from disclosure to others with the same degree of care it exercises in protecting its own confidential information. Buyer shall not copy any Confidential Information without the prior written consent of Seller. Buyer shall not use any Confidential Information except as is contemplated by the Quotation. Any Confidential Information so copied will be returned promptly to Seller upon request. Buyer shall enforce against its employees and agents these obligations of confidentiality. Nevertheless, information disclosed to Buyer shall not be deemed to be Confidential Information if (a) Buyer establishes that the information was already known to Buyer, without any obligation to keep it confidential, at the time of its receipt from Seller; or (b) Buyer establishes that the information was publicly known at the time of its receipt by Buyer from Seller or has become publicly known other than by a breach of this Quotation.

15. TERMINATION AND CANCELLATION. Seller may terminate this Quotation if Buyer (a) fails to pay when due any sums payable hereunder and such failure continues for 10 days after the due date; or (b) is in material breach of its obligations hereunder, other than the payment of money, and such breach continues for a period of 30 days after receipt by Buyer of written notice from Seller specifying such breach. Buyer agrees to pay to Seller a cancellation charge of 25% of the price of the order placed by Buyer unless otherwise specified in the quotation if (x) Seller terminates this Quotation in accordance with this section; (y) Buyer cancels all or any part of any order for Products or Services; or (z) Buyer fails to comply with any material obligation hereunder, including failure or refusal to make timely payments, causing Seller to cancel any order for Products or Services or portion thereof. Seller may terminate Services subject to this Quotation in its discretion, at any time upon 60 days prior notice in the event the Products or any part thereof are subject to excessive wear or deterioration. Recognizing that Sellers damages arising from any cancellation of any order or termination hereunder will be difficult to estimate, the parties agree that the cancellation charge is reasonable and is not a penalty. In addition to Sellers other rights and remedies available at law or equity, upon termination by Seller hereunder all amounts due shall become immediately payable by Buyer, Buyer shall immediately return any Confidential Information to Seller, and if Seller terminates pursuant to subsection (a) above, then Buyer shall immediately return the Products, freight prepaid, to Seller. This sentence and the sections entitled Title, Disclaimer, Intellectual Property Rights, Limitation of Liability, Confidential Information and General shall survive any termination.

16. GENERAL. This Quotation and any non-disclosure agreement entered into by the parties constitute the final, complete, exclusive and entire agreement between Seller and Buyer with respect to the subject matter of this Quotation. The terms of this Quotation and any non-disclosure agreement entered into by the parties supersede any contemporaneous oral agreements, prior written agreements, or prior agreements rising from discussions between Buyer and Seller. Seller shall not be liable for delays in performance or for non-performance due to acts of God, war, riot, fire, labor trouble, unavailability of materials or components, explosion, accident, compliance with governmental requests, laws, regulations, orders or actions, or unforeseen circumstances or causes beyond Sellers reasonable control. The construction, interpretation and performance of this Quotation and all transactions under it shall be governed by the Laws of the State of Montana, excluding its choice of law rules. The parties expressly reject the application of the United Nations Convention on Contracts for the International Sale of Goods to this Quotation. The parties hereby consent to the exclusive personal and subject matter jurisdiction of the federal and state courts of the State of Montana in any dispute arising under this Quotation. Buyer shall not assign its rights or obligations under this Quotation without the prior written consent of Seller, and any attempt to assign or delegate any rights, duties or obligations under this contract will be void. All rights and remedies hereunder shall be cumulative and may be exercised singularly or concurrently. The failure of either party at any time to enforce any provision of this Quotation shall not prevent either party from enforcing any other provision. The parties are independent contractors and not agents of each other. In the event that any portion of this Quotation shall be held to be unenforceable, that portion (to the extent not unenforceable) and the remaining portions of this Quotation shall remain in full force and effect. This Quotation shall not be modified except in a writing signed by Seller and Buyer. If a copy of this Quotation is translated into another language, the official version shall be the English language version, which shall prevail in all instances. All official correspondence and communications between the parties under this Quotation shall be in the English language. Buyer shall not export or re-export, directly or indirectly, any Product or Confidential Information to any countries outside the United States except in compliance with applicable United States export laws and regulations, including, without limitation, the Export Administration Regulations administered by the U.S. Commerce Department. Any firmware contained within the Products constitutes a commercial item developed exclusively at private expense, and, if distributed to or used by any U.S. Government entity, consists of commercial computer software and commercial computer software documentation as such terms are defined in the applicable U.S. Government acquisition regulations.