

Wesense Motion 2012 Ltd — TERMS & CONDITIONS OF SALE

DEFINITIONS: “Wesense” means Wesense Motion 2012 Ltd, an Israeli corporation; “the Buyer” means the person or company to whom this quotation is addressed, and, if the addressee notifies WESENSE upon acceptance of this quotation that it will lease the Products to an identified lessee, then “the Buyer” includes such lessee; and the term “the Product” shall mean the product or products proposed for sale by WESENSE.

1. **Acceptance.** WESENSE’s offer to sell the Product(s) specified in this quotation is expressly conditioned upon acceptance of the terms and conditions stated herein. WESENSE hereby objects to any additional or different terms and conditions contained in the Buyer’s purchase order, none of which shall be binding upon WESENSE unless specifically agreed to in writing signed by an officer of WESENSE. Failure by WESENSE specifically to object to provisions contained in the Buyer’s purchase order shall not in any way be deemed an alteration to or waiver of these terms and conditions. WESENSE’s acceptance of the Buyer’s purchase order must be made by written order acceptance.
2. **Prices & Shipments.** All prices are FOB carrier at WESENSE’s shipping point for shipments within the U.S. or Canada, and FCA Free Carrier (Incoterms 2000) for international shipments. Buyer is responsible for all costs of transport and insurance. Prices do not include any goods or services, technical data or documentation, proprietary rights of any kind, qualifications, testing or process performance that are not specifically stated herein. Prices are valid for 60 days from the date on a quotation unless otherwise stated on the face of the quotation. Prices for all Products are WESENSE’s published list price for the territory, unless otherwise specified on a quotation.
3. **Taxes & Other Charges.** Buyer is responsible for the ultimate payment of all local, foreign or provincial taxes, fees or charges of any nature whatsoever imposed by any governmental authority that may be assessed or levied on materials sold hereunder. Unless otherwise stated, prices do not include such taxes which will be added to the sales price where WESENSE has a legal obligation to collect them. If Buyer is exempt, Buyer shall provide WESENSE with the documentation necessary to support such a claim and to allow WESENSE to document its decision not to collect such tax.
4. **Changes.** Buyer may request changes to the Products after WESENSE’s acceptance of Buyer’s purchase order, and WESENSE will quote any changes in price, time of delivery, or other terms associated with the requested change. The proposed change shall not become effective unless and until Buyer issues a purchase order recording the change and WESENSE has confirmed its acceptance in writing.
5. **Delivery Dates.** All delivery and shipment dates quoted are approximate and subject to WESENSE’s availability schedule. WESENSE will make reasonable efforts to meet the delivery date(s) quoted, however, WESENSE does not assume liability, consequential or otherwise, because of any delay or failure to deliver all or part of an order for any reason. All delivery promises are predicated upon prompt and timely receipt from the Buyer of all necessary information, material samples, documentation, etc., and should be reconfirmed at the time of WESENSE’s written order acceptance..
6. **Credit & Payment Terms.** Unless otherwise stated on a quotation, payment terms are net thirty (30) days from date of shipment. All payment terms are conditioned upon approval of the Buyer’s credit and may be withdrawn or amended at any time by WESENSE at its discretion. WESENSE reserves the right to change the credit terms provided herein, refuse shipment or cancel unfilled orders at any time when, in its opinion, the financial condition or previous payment record of the Buyer so warrants. If delivery dates are delayed by Buyer, payments are nevertheless due when WESENSE is prepared to make delivery according to the delivery schedule. No cash discounts for early payment will be granted unless specifically stated on WESENSE’s quotation. Buyer shall be delinquent if payment is not remitted according to the applicable terms. Interest shall accrue on delinquent invoices at the rate of 1.5 percent per month, subject to federal, state and local laws, on the amount of the unpaid balance from the original due date of the invoice. In the event WESENSE refers delinquencies to an attorney or an agent for collection, Buyer shall pay all costs of collection, including reasonable attorney’s fees. Should Buyer become delinquent in

the payment of any sum due hereunder, all contractual obligations of WESENSE to the Buyer shall terminate.

7. **Security Interest.** Buyer agrees that WESENSE shall retain a security interest in the Products and any proceeds thereof to secure any portion of the purchase price not paid, and Buyer will, on request, execute a security agreement in such form as is required by WESENSE. WESENSE shall have all rights and remedies accorded by law or equity to a secured seller, including the right to enter upon the premises where the Products shall be located for purposes of removing or rendering them inoperative, and all such rights and remedies shall be cumulative. Buyer shall maintain insurance against all risks to cover full replacement value of the Products until WESENSE has been paid in full.
8. **Cancellation Charges.** Buyer agrees to pay to WESENSE a cancellation charge in the event it (1) cancels any order or portion thereof or (2) fails to meet any obligation thus causing cancellation. Such charges will be computed based on net invoice price as follows: twenty (20) percent for all standard component order cancellations prior to 30 days before scheduled shipment; thirty-five (35) percent for cancellations less than 30 days prior to shipment. Cancellation charges for orders involving custom or “special” Product will be 100% prorated by work completed on the order, unless otherwise stated in a quotation. Buyer agrees that this charge is a reasonable approximation of the damages that would result from its cancellation, and that the charge is not a penalty, but is used as a means to avoid the difficulty of proving the actual damages incurred by WESENSE. No order may be canceled after shipment has occurred.
9. **Acceptance Criteria & Documentation.**
 - a) **Standard Price List Products.** Buyer agrees to accept upon delivery Products which are items from WESENSE’s standard price list and for which Buyer has not required a performance test (see (b) below) upon demonstration to Buyer’s reasonable satisfaction that the Products are in material conformity to WESENSE’s published specifications in effect at the date of WESENSE’s acceptance of Buyer’s purchase order.
 - b) **Custom Products & Products Ordered with Particular Performance Criteria.** If Buyer requires criteria other than WESENSE’s published specifications to become conditions of Buyer’s final acceptance and payment for the Product, Buyer must specify the acceptance criteria to WESENSE to be included in the contract signed by WESENSE.

Buyer shall furnish or specify in writing the materials upon which the performance test will be performed, and, if material, any environmental conditions at Buyer’s facility under which the Product is expected to operate, but such conditions must be within those specified as minimum conditions by WESENSE. WESENSE will then devise and describe a performance test that will reasonably demonstrate the Product’s performance according to Buyer’s acceptance criteria; and prior to shipment of the Product, WESENSE will conduct the performance test at an authorized facility. An authorized representative of Buyer shall attend the performance test and, if the test is completed successfully, will accept the Product by executing WESENSE’s form of Performance Acceptance. Buyer shall then give its final authorization for any outstanding payments upon delivery to Buyer and demonstration that the Product materially complies with the agreed upon specifications. If the Buyer’s authorized representative fails to execute the Company’s form of Performance Acceptance or the Buyer fails to give its final acceptance of the Products, acceptance shall be deemed to have occurred on the earlier of the date on which the Products are put into operation by the Buyer or seven (7) days following the date the Products have been shown to materially conform to the agreed upon specifications.
10. **Warranty.** WESENSE provides a limited warranty on the Product, the terms and conditions of which are contained in a separate written Warranty. **WESENSE DISCLAIMS ALL OTHER WARRANTIES EXPRESS OR IMPLIED.**
11. **EXCLUSIVE REMEDIES.** THE REMEDIES PROVIDED HEREIN ARE BUYER’S SOLE AND EXCLUSIVE REMEDIES. NEITHER WESENSE NOR BUYER SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON CONTRACT, TORT OR OTHER LEGAL THEORY ARISING OUT OF THE

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SALE, INSTALLATION, SERVICE OR USE OF THE PRODUCTS, EVEN IF WESENSE LUMONICS HAS BEEN ADVISED OF THE LIKELIHOOD OF SUCH LOSSES, AND IN NO EVENT SHALL WESENSE'S LIABILITY EXCEED THE UNIT PRICE OF THE DEFECTIVE PRODUCT OR OF THE PRODUCT SUBJECT TO LATE DELIVERY. WESENSE NEITHER ASSUMES NOR AUTHORIZES ANY AGENT, EMPLOYEE, REPRESENTATIVE OR ANY OTHER PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE SALE, INSTALLATION, SERVICE OR USE OF ITS PRODUCTS.

12. **Patents.** WESENSE will, at its own expense, defend all actions or proceedings instituted against the Buyer and pay any award of damages assessed against the Buyer in such actions or proceedings up to the entire purchase price paid by Buyer for the infringing product, insofar as the same are based on any claim that the product or any part thereof constitutes an infringement of any claim of a patent, other than a claim covering a process or a product thereof in the country of installation, provided the Buyer gives WESENSE immediate notice in writing of the institution of the actions or proceedings and permits WESENSE through its counsel to defend the same and gives WESENSE all needed information, assistance and authority to enable WESENSE so to do.

If Product in such action is held to constitute infringement and its use enjoined, WESENSE, within a reasonable time, will either secure for the Buyer the right to continue using said product by suspension of the injunction, by procuring for the Buyer a license or otherwise or will, at its own expense, replace such product with non-infringing product or modify it so it becomes non-infringing or remove the said enjoined product and refund the sums paid therefore less a reasonable usage fee

WESENSE has no liability for any claim based upon the (a) combination, operation or use of any Product supplied hereunder with equipment, devices or software not supplied by WESENSE; or (b) modification or alteration of any Product supplied hereunder; or (c) WESENSE's compliance with Buyer's designs, specifications, or instructions. The foregoing states the entire obligation of WESENSE with respect to infringement or the like.

Buyer shall at its own cost and expense defend and hold WESENSE harmless against any expense, judgement or loss for alleged infringement of any claim of a patent, which results from WESENSE's compliance with Buyer's designs, specifications, or instructions.

13. **Authority to Export.** All orders accepted for export are subject to issuance of an export license by the United States or Canadian Government for export of the Product(s), and subject to the Buyer providing WESENSE with the relevant import certificate or any other document necessary to secure such export license and/or to permit the import of such goods into the country of destination.

14. **Miscellaneous.**

a) **Applicable Laws.** This contract shall be construed in accordance with the laws of the State of Israel

b) **Computer Software License.** Computer software provided with this order, including any subsequent improvements or updates, is furnished to Buyer in object code only under a nonexclusive, nontransferable license solely for Buyer's own use with a single system on which the software was first installed. The software may only be copied as may be necessary and incidental for use on such systems, for achival and backup purposes or to replace a worn or defective copy; provided that all such copies always include WESENSE's copyright and other proprietary notices on the software. Buyer shall not (a) market, commercialize, sublicense or otherwise provide or make available the software or any part hereof in any form to any third party; or (b) reverse engineer, reverse compile, or reverse assemble the software in whole or in part or do anything to produce source code. WESENSE has the right to terminate the software license if Buyer fails to cure any breach of these license terms within thirty (30) days after written notice from WESENSE. Buyer agrees, upon termination of the license, to immediately return or destroy the software and all portions and copies thereof, as requested by WESENSE.

c) **Confidential Data & Information.** If, in connection with the sale, purchase, use or maintenance of the Product(s), WESENSE is requested, required or deems it advisable to furnish data or information which it deems proprietary, confidential or both, WESENSE shall not, in any event, submit or be required to furnish such data or information until Buyer enters into an agreement concerning the handling, use, copying, retention and return of such information, the form of which agreement is available to Buyer upon request.

d) **Proprietary Rights.** WESENSE retains for itself all proprietary rights in and to all designs, engineering details, and other data and materials pertaining to all goods supplied by WESENSE and to all discoveries, inventions, patents and other proprietary rights arising out of the work done in connection with the goods or with any and all products developed as a result thereof, including the sole right to manufacture any such products. Buyer warrants that it will not divulge, disclose or in any way distribute or make use of such information, and that it will not manufacture or engage to have manufactured such products.

Buyer warrants that it has all right, title and interest in all products, drawings, designs, documents and specifications that it provides to WESENSE and its parent, subsidiaries and affiliates for WESENSE's use in providing goods and/or services for Buyer. Buyer shall at its own cost and expense, indemnify, defend and hold WESENSE harmless from and against any breach of the foregoing warranty.

e) **Force Majeure.** WESENSE shall not be responsible for any failure to perform the contract formed hereunder due to causes beyond its control, including, but not limited to, acts of God, labor disputes or shortages, acts of government or judicial action, or inability or delay in securing parts or components, all whether foreseen or unforeseen.

f) **Assignment.** None of the rights, duties or obligations defined herein may be assigned, transferred or delegated by Buyer.

g) **Non-waiver.** WESENSE's failure to exercise any of its rights for any period shall not constitute or be deemed a waiver or forfeiture of such rights.

h) **Entire Agreement .** These terms and conditions in conjunction with any valid quotation provided by WESENSE constitute the entire agreement between the parties with respect to the subject matter hereof and expressly supercedes all proposals and prior negotiations and understandings, whether written or oral, between the parties with respect to the subject matter hereof.

**WESENSE Procedures H.Y Ltd
LIMITED WARRANTY**

WARRANTY

Warranty: WESENSE Procedures H.Y Ltd ("WESENSE") warrants that the equipment sold to Buyer is free from defects in material and workmanship. This warranty expires at the end of the Warranty Period. WESENSE warrants that the equipment sold to the Buyer conforms to WESENSE's published specifications or to any agreed upon specifications between WESENSE and Buyer, at the time the Warranty Period begins and will continue to conform to such specifications throughout the Warranty Period. Unless otherwise specifically agreed to in writing, this warranty is nontransferable and creates no rights for any third party. If the equipment is to be incorporated into a system by Buyer or its contractors, this warranty is conditioned upon WESENSE's review and written approval of the plans for such application.

Warranty Period: The Warranty Period begins upon the receipt of the equipment by Buyer. Unless another Warranty Period is defined in the contract for sale the Warranty Period is twelve (12) months for all products, except for precision optics products whose Warranty Period is ninety (90) days and DRC Encoder products whose Warranty Period is twenty-four (24) months.

Remedy: As Buyer's exclusive remedy under this warranty, WESENSE will, (i) repair defective workmanship and will repair or replace defective parts with new or remanufactured parts if Buyer notifies WESENSE of a defect at any time within the Warranty Period; and (ii) WESENSE will repair or replace equipment which fails to meet WESENSE's published specifications if Buyer notifies WESENSE of such failure within 30 days after the Warranty Period begins. WESENSE may choose any method of repair or replacement at its option. If removal of equipment from Buyer's premises for repair is necessary in WESENSE's opinion, Buyer shall pay shipping charges to the place of repair, and WESENSE shall pay return shipping charges. If this remedy fails in its essential purpose, WESENSE may elect at any time to fully discharge its warranty obligation by accepting return of the equipment and refunding the purchase price paid by Buyer.

Exclusions: WESENSE makes no express warranty and excludes all implied warranties with respect to: (i) systems into which WESENSE equipment is incorporated (other than WESENSE equipment itself), (ii) any part which is scheduled to be replaced during the Warranty Period or is listed as a spare part in the operating manual for the equipment. Manufacturers' warranties for parts and components not warranted by WESENSE will be transferred to Buyer, if possible, and WESENSE will provide reasonable assistance to Buyer in making claims under such warranties. These specific exclusions are not intended to broaden WESENSE's warranty by failure to enumerate every excluded item.

Voidance: This warranty will become null and void in the following circumstances:

- (i) Improper disassembly, reassembly, repair or alteration of the equipment not performed by WESENSE's staff.
- (ii) Failure to maintain the equipment as provided in the relevant WESENSE operation manual.
- (iii) Accident, misuse or abuse or operation of the equipment in environments contrary to those specified by WESENSE.
- (iv) Failure to provide specified services to the equipment.
- (v) Damage during transportation.
- (vi) Defacement of the equipment's serial numbers.
- (vii) Buyer's failure to pay the full purchase price for the equipment according to the payment terms of the contract for sale.
- (viii) Incorporation of the equipment into a system without WESENSE's review and written approval of the application.

Software and Firmware Warranty: WESENSE warrants for the Warranty Period that the software and firmware sold to Buyer will conform to WESENSE's program manuals current at the time of shipment to Buyer when properly installed. WESENSE does not warrant that the software and firmware will operate uninterrupted or error free. Buyer's sole remedy for breach of this warranty is replacement by WESENSE of the nonconforming software or firmware with conforming or updated software or firmware.

Disclaimer: WESENSE shall in no event be liable for any indirect, incidental, consequential or special damages, whether sought for breach of contract, breach of warranty, express or implied or on account of tort or under any other legal theory, even if WESENSE has been advised of the likelihood of such losses.

THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, WHETHER STATUTORY OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Please contact your WESENSE sales representative for warranty assistance.

You may also contact WESENSE office at +972-4-6445454 for further assistance.