PAYMENT

VIBRO-LASER payment terms are 100% prepay unless payment terms have been approved at the sole discretion of VIBRO-LASER. All orders in excess of $10,000 require prepayment of 50% without exception and all international orders require 50% prepayment without exception regardless of order value. Any outstanding balances are subject to a 5% late fee compounded monthly.

WARRANTY

VIBRO-LASER warrants to Buyer that the Goods (excluding any software supplied with the Goods, which Software License and Buyer’s rights there to is set forth below) sold hereunder will be free from defects in material and manufacture at the time of title transfer under normal use and service that VIBRO-LASER’s liability and Buyer’s exclusive remedy under this warranty is limited to the repair or replacement, at VIBRO-LASER’s election, of Goods which are shown to VIBRO-LASER’s reasonable satisfaction to have been thus defective and returned to VIBRO-LASER within two (2) years after date of shipment of Goods to Buyer.

Written notice of a warranty claim must be given promptly by Buyer to VIBRO-LASER and, in no event later than sixty (60) days after Buyer’s discovery of a defect within the warranty period. Transportation charges for the return of such defective Goods to VIBRO-LASER and risk of loss thereof shall be borne by Buyer. Reshipment of the newly manufactured or repaired Goods to Buyer and risk of loss thereof shall be borne by VIBRO-LASER, and are warranted for the remainder of the applicable warranty period or for ninety (90) days after shipment of the newly manufactured or repaired Good, whatever period is longer.

This warranty shall not apply to any Goods or Goods parts which in VIBRO-LASER’s sole judgment (1) have been repaired or altered outside VIBRO-LASER’s facilities in any way so as to affect the safety, function or reliability of the Goods or Goods parts, or (2) has been subject to misuse, negligence, accident or other abuse. Under no circumstances shall the warranty set forth in this Section apply to any Good or any Goods which has been used with unapproved components or to any Goods, which have been customized or modified, damaged, or misused.

Third-Party-Goods (Tablets, Smartphones and other Third Party Goods) Warranty: Notwithstanding VIBRO-LASER’s warranty in above, and in lieu of such VIBRO-LASER warranty, the warranty offered by the manufacturer of a third-party-manufactured good sold or supplied by VIBRO-LASER (such as a PDA, Tablet PC, Laptop, or Smartphone) is the exclusive warranty applicable to such component sold in connection with the VIBRO-LASER Goods purchased hereunder. A copy or copies of such third-party manufacturer’s warranty will be furnished to Buyer upon request and/or is readily available from such third-party manufacturer and is incorporated herein by reference and is Buyer’s warranty of such third-party-manufactured good.

Service Warranty For Services to Repair Goods Not Within the Warranty Period: Repair services provided by VIBRO-LASER under an Order to repair a Good which is not within the warranty period are warranted for ninety (90) days after VIBRO-LASER ships the serviced Good back to the Buyer (“Service Warranty”), provided that such Service Warranty only extends to the service VIBRO-LASER provided in such repair (including parts or components of the Good repaired or replaced in the serviced Good), and the Service Warranty shall not apply to any other part or component of the Good not submitted for service and described in the Order Confirmation to be repaired.

Exclusive Warranties and Remedies: TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE FOREGOING WARRANTIES IN THIS SECTION ARE EXCLUSIVE AND ARE GIVEN AND ACCEPTED BY BUYER IN LIEU OF (i) ANY AND ALL OTHER WARRANTIES, ORAL, WRITTEN, STATUTORY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE; AND (ii) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM, OR REMEDY IN CONTRACT OR TORT, WHETHER OR NOT ARISING FROM VIBRO-LASER’S OR ANY OF ITS AFFILIATES’ NEGLIGENCE, ACTUAL OR IMPLIED, STRICT TORT LIABILITY OR BREACH OF WARRANTY. THE REMEDIES OF THE BUYER UNDER THIS AGREEMENT ARE LIMITED TO THE REPAIR OR REPLACEMENT OF THE DEFECTIVE GOOD(S), AS SET FORTH ABOVE, AND IN LIEU OF SUCH REMEDIES, THERE IS NO AGREEMENT VARYING OR EXTENDING THE FOREGOING WARRANTIES, REMEDIES, OR THIS LIMITATION WILL BE BINDING UPON VIBRO-LASER OR ANY OF ITS AFFILIATES UNLESS IN WRITING, SIGNED BY A DULY AUTHORIZED OFFICER OF VIBRO-LASER OR OF SUCH AFFILIATES.

SOFTWARE LICENSE

VIBRO-LASER software and any third party software, documentation, interfaces, content, fonts and any data accompanying this License whether on disk, SD card, downloaded from a VIBRO-LASER-controlled website, in read-only memory, on any other media or in any other form (collectively the “VL Software”) are licensed, not sold to Buyer, by VIBRO-LASER for use only under the terms of this License. VIBRO-LASER and/or VIBRO-LASER’S licensors retain ownership of the VL Software itself and reserve all rights not expressly granted to Buyer. For each computer interface purchased from VIBRO-LASER, a copy of VL Software must be purchased at the same time and are typically included with the purchase of a system or kit.

VIBRO-LASER, at its discretion, may make available future updates to the VL Software purchased. The VL Software updates, if any, may not necessarily include all existing software features or new features that VIBRO-LASER releases for newer, other or different models of VIBRO-LASER Goods. The terms of this Agreement will govern any software updates provided by VIBRO-LASER that replace and/or supplement the original VL Software for the Good(s) purchased by Buyer, unless such update is accompanied by a separate license in which case the terms of that license will govern such update.

Title and intellectual property rights in and to any content displayed by or accessed through the VL Software belongs to the respective content owners. Portions of the VL Software may utilize, include, require for installation or recommend downloading of third-party software and other copyrighted material. Acknowledgments, licensing terms and disclaimers for such material are found at such third-party software company websites, and Buyer’s use of such material is governed by their respective terms. Such software is distributed or recommended by VIBRO-LASER in the hope it may be useful, but WITHOUT ANY WARRANTY BY SUPPLIER, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE.

Subject to the terms and conditions of this License, Buyer is granted a limited non-exclusive license to install the VL Software purchased by Buyer on three (3) machines (tablets or laptops) owned or controlled by Buyer. Buyer may not and agrees not to, or to enable others to, copy, decompile, reverse engineer, disassemble, attempt to derive the source code of, decrypt, modify, or create derivative works of the VL Software or any services provided by the VL Software, or any part thereof. Buyer may not rent, lease, lend, sell, redistribute or sublicense the VL Software. Buyer may, however, make a one-time permanent transfer of all Buyer’s License rights to the VL Software to another party, provided that: (i) the transfer must include all the VL Software, including all its component parts, original media (if any), printed materials and this License; (ii) Buyer does not retain copies of
TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE VL SOFTWARE AND THE FUNCTIONS CONTAINED IN AND/OR SERVICES PERFORMED OR PROVIDED BY SUCH VL SOFTWARE (COLLECTIVELY REFERRED TO AS “VL SOFTWARE AND SERVICES”), ARE PROVIDED “AS IS” AND “AS AVAILABLE”, WITH ALL FAULT AND WITHOUT WARRANTY OF ANY KIND, AND VIBRO-LASER AND VIBRO-LASER’S LICENSORS (COLLECTIVELY REFERRED TO AS “VL”) HEREBY DISCLAIM ALL WARRANTIES AND CONDITIONS WITH RESPECT TO VL SOFTWARE AND SERVICES, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OR SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR ACCURACY, OF QUIET ENJOYMENT, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

VIBRO-LASER/VL DOES NOT WARRANT AGAINST INTERFERENCE WITH BUYER’S ENJOYMENT OF THE VL SOFTWARE AND SERVICES, THAT THE VL SOFTWARE AND SERVICES WILL MEET BUYER’S REQUIREMENTS, THAT THE OPERATION OF THE VL SOFTWARE AND SERVICES WILL BE UNINTERRUPTED OR ERROR FREE, THAT ANY VL SOFTWARE SERVICES WILL CONTINUE TO BE MADE AVAILABLE, THAT THE VL SOFTWARE AND SERVICES WILL BE COMPATIBLE OR WORK WITH ANY THIRD PARTY SOFTWARE, APPLICATIONS OR THIRD PARTY SERVICES, OR THAT DEFECTS IN THE VL SOFTWARE AND SERVICES WILL BE CORRECTED. INSTALLATION OF VL SOFTWARE MAY AFFECT THE USABILITY OF THIRD PARTY SOFTWARE APPLICATIONS OR THIRD PARTY SERVICES.

TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT SHALL VIBRO-LASER BE LIABLE FOR PERSONAL INJURY, PROPERTY DAMAGE, OR ANY INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL OR SIMILAR DAMAGES WHATSOEVER, INCLUDING DAMAGES FOR LOSS OF PROFITS, CORRUPTION OR LOSS OF DATA OR INFORMATION, FAILURE TO RECEIVE OR TRANSMIT OR RECEIVE ANY DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF, RELATING TO BUYER’S USE OR INABILITY TO USE THE VL SOFTWARE AND SERVICES OR ANY THIRD PARTY SOFTWARE OR APPLICATION SERVICES PROVIDED WITH THE VL SOFTWARE AND SERVICES, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (INCLUDING NEGLIGENCE, STRICT TORT OR OTHERWISE) AND EVEN IF VIBRO-LASER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL VIBRO-LASER’S TOTAL LIABILITY TO BUYER FOR ALL SUCH PROVED DAMAGES RELATING TO BUYER’S USE OF VL SOFTWARE AND SERVICES OTHER THAN AS MAY BE REQUIRED BY APPLICABLE LAW IN CASES INVOLVING PERSONAL INJURY EXCEED THE AMOUNT BUYER PAID SUPPLIER FOR THE VL SOFTWARE AND SERVICES LESS A RESTOCKING FEE OF 10% PLUS SHIPPING EXPENSES IF THE PRODUCTS ARE RETURNED. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

BUYER ACKNOWLEDGES AND AGREES THAT USE OF THE VL SOFTWARE AND SERVICES IS AT BUYER’S SOLE RISK AND ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE AND ACCURACY IS WITH BUYER. BUYER ACKNOWLEDGES THAT VL SOFTWARE AND SERVICES ARE NOT INTENDED OR SUITABLE FOR USE IN SITUATIONS OR ENVIRONMENTS WHERE THE FAILURE OR TIMING DELAYS OR ERRORS OR INACCURACIES IN THE CONTENT, DATA OR INFORMATION PROVIDED BY, THE VL SOFTWARE AND SERVICES COULD LEAD TO DEATH, PERSONAL INJURY OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE, INCLUDING WITHOUT LIMITATION, THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, LIFE SUPPORT OR WEAPONS SYSTEMS. BUYER AGREES IT MAY NOT USE OR OTHERWISE EXPORT THE VL SOFTWARE EXCEPT AS PERMITTED UNDER THE U.S. LAW AND LAWS OF THE JURISDICTION IN WHICH THE VL SOFTWARE WAS OBTAINED. IN PARTICULAR, BUT WITHOUT LIMITATION, THE VL SOFTWARE MAY NOT BE EXPORTED OR REEXPORTED (A) INTO ANY U.S. EMBARGOED COUNTRIES; OR (B) TO ANYONE ON THE U.S. TREASURY DEPARTMENT’S LIST OF SPECIALLY DESIGNATED NATIONALS OR THE U.S. DEPARTMENT OF COMMERCE DENIED PERSON’S LIST OR ENTITY LIST. BUYER AGREES IT WILL NOT USE THE VL SOFTWARE FOR ANY PURPOSES PROHIBITED BY U.S. LAW, INCLUDING WITHOUT LIMITATION, THE DEVELOPMENT, DESIGN, MANUFACTURE OR PRODUCTION OF MISSILES, NUCLEAR, CHEMICAL OR BIOLOGICAL WEAPONS.

LIMITATION OF LIABILITY TO THE MAXIMUM EXTENT PERMITTED BY LAW, WITH RESPECT TO ANY VIBRO-LASER GOODS, PARTS OR SERVICES PURCHASED UNDER THIS AGREEMENT OR ANY THIRD PARTY GOODS, PARTS OR SERVICES PURCHASED UNDER ANY THIRD PARTY AGREEMENT, AND ALLEGED TO BE THE DIRECT OR INDIRECT CAUSE OF ANY DIRECT OR INDIRECT LOSS OR DAMAGE TO THE BUYER OR ITS CUSTOMERS, THE SUM EQUAL TO THE INVOICED PRICE OF SUCH GOODS, PARTS OR SERVICES OR LICENSE SHALL BE THE CEILING LIMIT ON VIBRO-LASER’S LIABILITY WHETHER FOUND IN CONTRACT OR TORT (INCLUDING NEGLIGENCE, STRICT TORT LIABILITY OR BREACH OF WARRANTY), ARISING OUT OF OR RESULTING FROM (A) THIS AGREEMENT OR THE PERFORMANCE OR BREACH THEREOF, OR (B) THE DESIGN, MANUFACTURE, DELIVERY, SALE, LICENSE, REPAIR, REPLACEMENT, OR ANY USE OF SUCH GOODS OR VL SOFTWARE OR (C) THE FAILURE OF ANY SUCH SERVICES, TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL VIBRO-LASER OR ANY OF ITS AFFILIATES HAVE ANY LIABILITY TO ANY PERSON FOR INCIDENTAL, SPECIAL, CONSEQUENTIAL INDIRECT, PUNITIVE DAMAGES OR SIMILAR DAMAGES, INCLUDING LOST PROFITS, EVEN IF VIBRO-LASER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

Confidentiality: Buyer acknowledges that, under this Agreement, it will receive information not generally known to the public about the way in which VIBRO-LASER develops, designs, produces or sells its products, including the Goods, or about the way which VIBRO-LASER conducts its business including, but not limited to, information related to VIBRO-LASER’s Goods, Goods needs and specifications, customers and sales (“VIBRO-LASER Confidential Information”). Buyer also acknowledges that the terms of specific Orders under this Agreement are VIBRO-LASER Confidential Information such care Buyer uses in maintaining the confidentiality of its own secret information, but no less than a reasonable degree of care. Buyer will use VIBRO-LASER Confidential Information only to the extent necessary to perform its obligations under this Agreement. Buyer agrees not to analyze the composition or structure of the Goods or any other materials delivered by VIBRO-LASER to Buyer, except with VIBRO-LASER prior written consent.

VIBRO-LASER retains all its existing Intellectual Property rights (including but not limited to patents, trade secrets, know-how, trademarks and copyrights) in the Goods and/or VL Software (and any VL Software updates). Nothing in the Order shall be construed as Buyer granting Supplier a license in or any right to use any Intellectual Property rights owned or controlled by Buyer other than as expressly contained in the Terms.

All Orders for purchase of Goods and/or Services from VIBRO-LASER will be considered New York State USA contracts and shall be interpreted for all purposes under the laws of the State of New York, without regard to: (i) New York’s principles of conflicts of law; (ii) the 1980 United Nations Convention on Contracts of the International Sale of Goods; and (iii) other international laws. The parties agree to submit exclusively to the jurisdiction of both the state and federal courts of New York.