

Buyer may accept Moxtek's Quotation with buyer's purchase order (PO), conditional on buyer's acceptance of Moxtek's ten terms of sale (Terms) below. If no **contract** was formed by Moxtek's Quotation and buyer's PO, then Moxtek's Order Confirmation may be an acceptance of buyer's PO, **conditional** on buyer's assent to Moxtek's Terms. No matter how formed, the parties' agreement (Agreement), related to product (Product) purchased from Moxtek, is subject to the following Terms:

1. Moxtek may invoice buyer after Moxtek's delivery of Product. Buyer will pay Moxtek in U.S. dollars within 30 days from the date of Moxtek's invoice. Buyer will pay late charges of 1½ percent per month on any overdue balance and will reimburse Moxtek for all costs incurred in collecting any overdue amounts. Moxtek may defer shipments or refuse to ship Product if Buyer fails to pay per the Terms.
2. Buyer must inspect Product upon receipt and notify Moxtek of rejection within 15 days after receipt. Buyer accepts Product by not rejecting it within 15 days after receipt.
3. Limited Warranty.

Moxtek will repair, replace, or refund the price of Moxtek's optics Product if (a) at the time of shipment it failed to comply with written specifications provided by Moxtek to buyer; and (b) it wasn't modified or damaged by non-Moxtek employees, as determined by Moxtek's inspection. Moxtek may choose whether to repair, replace, or refund.

Moxtek will repair, replace, or refund the price of Moxtek's x-ray Product if (a) within the lesser of 2000 hours of use or 12 months (16 months for OEM buyers) from the date shipment it failed to comply with written specifications provided by Moxtek to buyer; and (b) it wasn't modified or damaged by non-Moxtek employees, as determined by Moxtek's inspection. Moxtek may choose whether to repair, replace, or refund. If any x-ray Product is outside the warranty period, or Moxtek determines that the Product returned is not defective, then buyer will pay Moxtek a \$200 service fee for Moxtek's testing service.

To obtain warranty service, buyer must obtain an RMA number from Moxtek, then ship the Product, pre-paid by buyer to Moxtek. Buyer is solely responsible for shipping cost and risk of loss of the return. Moxtek will scrap defective Product unless (a) buyer requests in the RMA that the defective Product is returned, and (b) buyer pays for return shipping.

This limited warranty is Buyer's exclusive remedy for defective Product. **Moxtek disclaims warranties of title, non-infringement, interoperability, merchantability, and fitness for a particular purpose.**

4. Buyer must use the Product only in the manner and for the purpose for which the Product is intended. Buyer must follow Product technical and safety instructions.

Buyer must inform its employees and customers in the proper handling, use, and safety of the Product. Buyer will indemnify Moxtek for any costs associated with buyer's or its customers' improper use of the Product.

5. If an event beyond the reasonable control of a party causes a breach of a duty of that party (Breaching Party), then the Breaching Party will not be liable for consequential damages caused by such breach, but the Breaching Party must promptly notify the other party (Non-breaching Party) and the Non-breaching Party will have the right to terminate this Agreement. The foregoing does not excuse buyer from timely paying for Product received.
6. Both parties will comply with all applicable U.S. Export Laws and Regulations.
7. If Moxtek is more than 30 days late in meeting a delivery date, then buyer's exclusive remedy is to cancel the order prior to shipment.
8. No term is waived, and no breach is pardoned, unless stated in a writing signed by an authorized officer of the Party making such waiver or pardon. A present waiver or pardon is not a waiver or pardon in the future unless stated in the writing.
9. Dispute Resolution (for any dispute related to the Product)

This Agreement and the parties' relationship will be governed by these Terms and the laws of the State of Utah USA, without regard to any conflicts of law provisions therein, with the exception that any federal question will be governed by the federal laws of the USA.

The parties agree to the exclusive jurisdiction and venue of any state or federal court in the State of Utah, USA. Each party waives any right to object to such courts based on venue, lack of personal jurisdiction, forum non conveniens, or similar grounds.

The non-prevailing party will pay reasonable attorney fees of the prevailing party.

Unless otherwise stated herein, all remedies are cumulative. Any legal action must begin within one year after the breach occurs.

10. **Neither party is liable for incidental, consequential, or exemplary damages.**
Each party's maximum liability is the cost paid for the corresponding Product.