

## **LEGAL NOTICES**

All materials contained on Advanced Fiber Solutions (“AFS”) website are the intellectual property of AFS (unless otherwise noted). Consumer recognizes and acknowledges the exclusive right of AFS in and to all trademarks, service marks, trade names, copyrights, patents, and other intellectual property and proprietary rights. Consumer may not use any intellectual property or proprietary interest of AFS without the prior written consent of AFS. Fair use in advertising and promotion requires proper acknowledgement.

Copyright, trademark, patent, and/or other intellectual property laws protect all licensed hardware, software, code, written materials, and graphics contained on AFS’ website, as well as their selection and arrangement. Any unauthorized use may violate such laws and the following terms and conditions of use which may result in civil/criminal prosecution.

AFS may change its Legal Notices (Privacy Policy and Terms and Conditions of Use) from time to time. You, as consumer, should familiarize yourself with AFS’ legal notices and review them from time to time to remain familiar with them and any such changes. This is the only notification you will receive regarding changes to the legal notices. Any and all changes will become effective when posted.

### **Privacy Policy**

This privacy policy is not intended to and does not create any contractual or other legal rights in or on behalf of any party.

This privacy policy is designed to show how AFS protects and uses information (personal and non-personal) gathered in the course of doing business online.

### **Personal information**

Personal information is information that can be used to identify a consumer. Examples include: business name; business address; e-mail address; telephone number; and contact person. AFS does not collect personal information.

Notwithstanding the foregoing, should AFS collect personal information in the future, any and all information collected may be used in-house, however, it will not be sold or disclosed to any third party (for profit), except in the following circumstances: to enforce AFS’ legal notices; to comply with laws or governmental regulations; in conjunction with a corporate sale, merger, dissolution, or acquisition; in response to a subpoena or warrant, or to protect the rights of AFS or others; or to cooperate with law enforcement agencies in investigating or prosecuting a offense.

### **Non-personal information**

Non-personal information is information that does not identify a consumer. It is collected through the use of cookies (see below). It includes: the type of web browser used; the

web address consumer links from and the date and time of use; how long the consumer spent visiting the site; and the number of consumers visiting the site.

Non-personal information is collected in aggregate form. It may be used to create usage reports; for statistical analysis; for R&D, marketing, or other promotional services; or to share with or sell to third parties.

### Cookies

Most websites use cookies. They are small pieces of information, placed on a consumer's browser by a web server and can be read only by that server to record the visit. Most browsers are set to accept cookies. Although consumer can refuse a cookie, this may prevent consumer from visiting the entire site.

### How to contact AFS

Advanced Fiber Solutions

19 Norfolk Ave South Easton, MA 02375

[info@afsi.us](mailto:info@afsi.us)

## **Terms and Conditions of Use**

### Definitions

The following terms, in bold type, shall have the following meaning:

The term “**licensed product(s)**” shall mean the product(s) developed by AFS and shall include the following: “optical power meters” (to include OM100 series and OM200 series); “optical sources” (to include OS400 series); “test kits”; “accessories” (to include attenuators, adaptors, microscopes, curing ovens, and tools); “tool boxes” (to include TBX51 and TBX61); and the “OTDR” optical time domain reflectometer.

### General statement of use

AFS is in the business of development of complete fiber optic test equipment solutions. In order to maximize its service to its consumers, AFS has created a website at [www.afsi.us](http://www.afsi.us) in order to keep its consumers up to date with new product(s) and advances in existing product(s).

By accessing AFS' website, including, without limitation, downloading any material, you agree to and are bound by these terms and conditions of use. Nothing contained herein shall be construed as creating a relationship of agency, joint venture, or partnership. Neither party is authorized to act as agent, broker, or legal representative of the other. Neither party shall have any rights whatsoever to incur any liabilities on behalf of the

other. The relationship created between AFS and consumer shall be solely that of licensor and licensee unless indicated to the contrary in writing.

To the extent allowed by copyright law and not limited by these terms and conditions of use, consumer may make and distribute copies of AFS' materials. AFS does not warrant that use of information or graphics displayed on its website will not infringe the rights of third parties.

All questions concerning the use of Intellectual Property and Intellectual Property rights on AFS' website should be sent to [info@afsi.us](mailto:info@afsi.us) stating INTELLECTUAL PROPERTY in the subject line.

Warranties, disclaimers, limitation of liability, and indemnity

AFS warrants that to the best of its knowledge it has all the necessary rights, title, licenses, permissions, and approvals required for any hardware, software, written material, and code used in developing its licensed product(s). Said licensed product(s) are provided free of all liens, claims, encumbrances, and other restrictions. AFS warrants that to the best of its knowledge its licensed product(s) do not violate or infringe the intellectual property rights of any third party, or the laws or regulations of any governmental or judicial authority.

AFS warrants that for a period of twelve (12) months from the date of shipment that all tangible portions of its licensed product(s) as delivered shall be free from any defects in materials and workmanship and shall substantially conform to and operate in accordance with the specifications for such licensed product(s) in all material respects.

Should any failure to conform become apparent within 12 months from the date of shipment, AFS will, upon prompt written notice, correct such non-conformity by repair or replacement at AFS's Massachusetts facilities, shipment to such facility to be at purchaser's cost and repaired or replaced components to be shipped to purchaser FOB AFS's facility. Correction of the non-conformity in the manner provided herein shall constitute a fulfillment of all liability of AFS with respect to the quality of the licensed product(s).

In no event will this warranty extend to non-conformity in performance resulting from: improper or inadequate maintenance performed by any person other than an employee or agent of AFS; failure of performance or function caused by or attributable to equipment not supplied by AFS; modification of any AFS product or connection therewith or modification of any supplementary equipment not supplied or produced by AFS; operation of the product or its use other than as provided by AFS; accident, disaster, transportation or neglect or any other circumstance, or event beyond AFS's control.

AFS' LICENSED PRODUCT(S) IS PROVIDED "AS IS" AND "AS AVAILABLE" WITH NO WARRANTIES WHATSOEVER SAVE THOSE SPECIFICALLY REFERRED TO HEREIN. ALL EXPRESS, IMPLIED, AND STATUTORY

WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT OF PROPRIETARY RIGHTS ARE EXPRESSEDLY DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW.

IN SOME JURISDICTIONS THE DISCLAIMER OF IMPLIED WARRANTIES IS NOT PERMITTED, ACCORDINGLY, THE FOREGOING DISCLAIMER MAY NOT APPLY TO YOU.

IN NO EVENT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), SHALL AFS, ITS SUBSIDIARIES, AFFILIATES, AGENTS, OFFICERS, DIRECTORS, EMPLOYEES, PARTNERS, OR SUPPLIERS BE LIABLE TO ANY PARTY FOR ANY SPECIAL, PUNITIVE, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES OF ANY KIND,

OR ANY DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THOSE RESULTING FROM LOSS OF USE, LOSS OF DATA, OR LOSS OF PROFITS, (EVEN IF AFS WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) AND ON ANY THEORY OF LIABILITY, ARISING OUT OF OR IN CONNECTION WITH THE USE OF OR THE INABILITY TO USE THE LICENSED PRODUCT(S), IN PARTICULAR (THOUGH NOT SPECIFICALLY) ON ACCOUNT OF THE CONSUMER'S USE OR MISUSE OF AND RELIANCE ON AFS' LICENSED PRODUCT(S). SUCH LIMITATION OF LIABILITY SHALL APPLY TO PREVENT RECOVERY OF DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, AND PUNITIVE DAMAGES, (EVEN IF AFS WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES). SUCH LIMITATION OF LIABILITY SHALL APPLY WHETHER THE DAMAGES ARISE FROM USE OR MISUSE OF OR RELIANCE ON AFS' LICENSED PRODUCT(S), FROM INABILITY TO USE AFS' LICENSED PRODUCT(S), OR FROM THE INTERRUPTION, SUSPENSION, OR TERMINATION OF THE LICENSED PRODUCT(S), (INCLUDING SUCH DAMAGES INCURRED BY THIRD PARTIES).

UNDER NO CIRCUMSTANCES SHALL AFS BE HELD LIABLE FOR DELAY OR FAILURE IN PERFORMANCE RESULTING DIRECTLY OR INDIRECTLY FROM ACTS OF NATURE, FORCES OR CAUSES BEYOND ITS REASONABLE CONTROL, INCLUDING WITHOUT LIMITATION, COMPUTER EQUIPMENT FAILURE, TELECOMMUNICATIONS EQUIPMENT FAILURE, OTHER EQUIPMENT FAILURE, ELECTRICAL POWER FAILURE, STRIKES, LABOR DISPUTES, RIOTS, INSURRECTIONS, CIVIL DISTURBANCES, SHORTAGES OF LABOR OR MATERIALS, FIRES, FLOODS, STORMS, EXPLOSIONS, ACTS OF GOD, WAR, GOVERNMENTAL ACTIONS, ORDERS OF DOMESTIC OR FOREIGN COURTS OR TRIBUNALS, NON-PERFORMANCE OF THIRD PARTYS OR LOSS OF OR FLUCTUATIONS IN HEAT, LIGHT, OR AIR-CONDITIONING.

IN SOME JURISDICTIONS, THE EXCLUSIONS, OR LIMITATIONS OF LIABILITY, WHETHER OR NOT FOR CONSEQUENTIAL OR INCIDENTAL

DAMAGES IS PROHIBITED, ACCORDINGLY, THE FOREGOING LIMITATIONS AND EXCLUSIONS MAY NOT APPLY TO YOU.

IN NO EVENT SHALL AFS' TOTAL LIABILITY TO THE CONSUMER FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION, RESULTING FROM THE USE OF AFS' LICENSED PRODUCT(S), WHETHER IN CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO NEGLIGENCE) OR OTHERWISE, EXCEED THE LESSOR OF EITHER THE AMOUNT PAID TO AFS BY CONSUMER DURING THE MOST RECENT TWELVE (12) MONTH PERIOD OR THE PRICE OF THE EQUIPMENT OR PART THEREOF, ON WHICH SUCH LIABILITY IS BASED.

Consumer agrees to indemnify and hold AFS and its subsidiaries, affiliates, officers, agents, suppliers, partners, directors, and employees harmless from any claim or demand, including reasonable attorneys' fees made by any third party due to or arising out of (without limitation) consumer's violation of these terms and conditions of use, or the actions of any subsidiaries, affiliates, officers, agents, suppliers, partners, directors, and employees of consumers, or consumer's violation of any rights of any other person or entity.

## Governing law and jurisdiction

Any action or proceedings brought by either party against the other arising out of or related to any matter shall be brought only in a state court of competent jurisdiction located in the county of Norfolk, Massachusetts, or the Federal District Court for the District of Massachusetts, and the parties hereby consent to the personal jurisdiction of said courts and waive any and all objections to such selection of venue or forum. The provisions of the United Nations Convention for the International Sale of Goods are hereby waived and disclaimed.

## Miscellaneous

*Notices.* All notices, requests, demands, and other communications called for or contemplated hereunder shall be in writing and shall be deemed to have been duly given when delivered or three (3) days after mailing by U.S. certified mail, return receipt requested, postage prepaid (unless other modes of delivery are specified), at such address as the parties may designate by written notice.

*Non-waiver and severability.* AFS' failure to exercise any right or provision of these terms and conditions of use shall not constitute a waiver of such right or provision. If a court of competent jurisdiction holds any provision of these terms and conditions of use to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the party's intentions as reflected in the provision, and agree that the other provisions of these terms and conditions of use remain in full force and effect. In the event that any provision is found invalid or unenforceable pursuant to judicial decree or decision, the remainder of the terms and conditions of use shall remain valid and enforceable.

*Attorneys'/legal fees.* In the event suit is commenced to enforce the terms and conditions of use or otherwise relating to the licensed product(s), the prevailing party shall be entitled to reasonably attorney's fees and costs incurred in connection therewith.

*Amendments.* These terms and conditions of use are amendable only in writing executed by consumer and AFS. No subsequent agreement shall operate to amend the terms and conditions of use unless in writing and executed by consumer and AFS. No waiver of any provision of the terms and conditions of use shall constitute a waiver of any other provision or of the same provision on another occasion.

*Submission of ideas.* AFS is constantly striving to improve its licensed product(s) and developing new licensed product(s). If you have any ideas regarding the improvements or additions to the licensed product(s), AFS would like to hear them—but any submission will be subject to these terms and conditions of use. Under no circumstances shall any disclosure of any idea and/or related materials to AFS be subject to any obligation of confidentiality or expectation of compensation. By submitting the idea and/or any related material to AFS, you are waiving any and all rights that you may have and are representing and warranting to AFS that the idea, and/or related materials are wholly original with you, that no one else has any rights in the idea and/or related materials and that AFS is free to implement the idea and to use the materials if it so desires, as provided or as modified by AFS, without obtaining permission or license from any third party.