

Exhibit A

TERMS AND CONDITIONS

1. **Entire Agreement.** The terms of this Agreement and all Orders (as defined below) issued by Buyer under this Agreement shall, together with all exhibits, schedules, addenda, appendices and annexes attached hereto, contain the entire agreement of the Parties with respect to the subject matter contained herein and therein and supersede all other agreements, representations, negotiations or understandings, both written and oral, between the Parties with regard to such subject matter. The terms and conditions of this Agreement shall control, except with respect to Order terms specifying quantity, delivery dates, designated locations, and accompanying terms and conditions that do not conflict with this Agreement, and such other terms that are expressly negotiated and agreed to by the Parties in writing. Except with respect to the foregoing, Buyer and Seller agree that any different terms, whether additional or conflicting, in any forms, order acknowledgments or confirmations, invoices or other documentation, regardless of when presented, are expressly rejected, disclaimed and without effect. This Agreement may be amended only in a writing signed by both Parties.
2. **Purchase Prices; Payment; Orders.** Seller shall sell to Buyer, and Buyer shall purchase from Seller, such quantity of products as defined in the "Products" section of the body of this Agreement or as otherwise ordered by Buyer from Seller from time to time (collectively, the "Products" and each, a "Product") as Buyer, in its sole discretion, shall determine on the basis of purchases orders (each, an "Order") submitted to Seller from time to time during the Term (as defined below). Buyer shall transmit orders for Products by written Order delivered to Seller specifying the quantities of the Products to be purchased, the delivery dates and place of destination. All Orders for Products will be placed by Buyer on Buyer's standard form of purchase order as the same may exist from time to time. Buyer shall have the right at no additional cost to (a) vary the quantity of any Order by up to twenty percent (20%) by written notice to Seller given at least thirty (30) days prior to the scheduled delivery date of such Order and (b) delay the shipping date of any Order by up to thirty (30) days by written notice to Seller given at least fifteen (15) days prior to the original delivery date.

The purchase price (the "Purchase Price") for the Products purchased by Buyer during the Initial Term of this Agreement shall be the purchase price(s) set forth in the "Price" section of the body of this Agreement, subject to all applicable discounts and rebates. No increase in any Purchase Price will be accepted by Buyer unless agreed to in advance and in writing by an authorized representative of Buyer. Seller shall maintain a continual improvement and cost reduction process in order to improve Product quality and reduce Seller's costs by not less than three percent (3%) annually, which cost reductions shall in turn be passed from Seller to Buyer in the form of corresponding Purchase Price reductions. The year-over-year savings in accordance with this paragraph shall be recorded (per part number) on an exhibit to this Agreement. Subject to the foregoing, the Parties shall use reasonable efforts to agree with respect to any price adjustments which may be made for subsequent terms and/or with respect to the addition of new Products to be purchased under this Agreement. All Purchase Prices shall be stated in United States dollars.

On a monthly basis, Seller shall submit to Buyer an electronic summary bill ("Summary Bill"), which includes, but is not limited to prices, taxes, fees, freight, delivery location and Buyer identification number, in each case, if applicable. Buyer shall submit to Seller all credits due to Buyer or any changes to the Summary Bill on a monthly basis. No invoices shall be paid unless Product is received by Buyer. Payment for Products shall be made in accordance with the "Payment Terms" section of the body of this Agreement following the later to occur of (a) the delivery of the Products or (b) the receipt of an acceptable invoice with respect to such Products. No interest shall be paid on invoices for Products, and no storage charges shall be incurred by Buyer. Buyer may, upon not less than thirty (30) days' written notice to Seller, set off the amount of any claim for damages it has against, or any amounts owed by, Seller against amounts owed by Buyer or any affiliate of Buyer ("Buyer Affiliate").

In the event Seller sells Products to a Buyer Affiliate, Seller acknowledges and agrees that each Buyer Affiliate (a) shall be solely responsible to Seller for payment of the Purchase Price, it being understood that Buyer is not a party to such transaction and (b) shall be responsible for establishing its own creditworthiness with Seller and Seller shall be responsible in each case for investigating and determining the creditworthiness of each Buyer Affiliate.
3. **Term; Termination.** The initial term of this Agreement shall be the Initial Term of Agreement set forth in the body of this Agreement (the "Initial Term"). Following the Initial Term, this Agreement shall renew automatically for successive renewal terms of sixty (60) days each, unless either Party signifies in writing its intent not to renew this Agreement at least thirty (30) days prior to the expiration of the Initial Term or any subsequent renewal term, as applicable. The Initial Term and all renewal terms are collectively referred to herein as the "Term."

Buyer shall have the right to terminate this Agreement and any Order issued hereunder at any time without cause on sixty (60) days' prior written notice to Seller.

In addition, this Agreement may be terminated by the non-defaulting Party, at its election, upon five (5) business days' written notice (or such other period specified below) to the defaulting Party upon the occurrence of any of the following events: (a) the defaulting Party fails to perform for whatever reason a material term hereof and such failure cannot be cured, or if the failure can be cured, it is not cured within thirty (30) days after written notice from the non-defaulting Party specifying the nature of such failure is received by the defaulting Party; (b) the defaulting Party is adjudicated insolvent by any court or tribunal, or files a voluntary petition in bankruptcy, or enters into an arrangement with its creditors, or applies for, or consents to, the appointment of a receiver or trustee of itself or its property, or makes an assignment for the benefit of creditors, or suffers or permits the entry of an order adjudicating it to be bankrupt or insolvent or appointing a receiver or trustee of itself or its property or suffers an involuntary petition in bankruptcy filed against it to remain undischarged or stayed for a period of sixty (60) days, in which event, no notice to the defaulting Party shall be required and the Agreement shall immediately and automatically terminate; (c) a direct competitor of Buyer acquires either five percent (5%) or more of the capital stock or substantially all of the assets of Seller or any of its affiliates; and/or (d) if any Products threaten to cause, or result in, a serious health-related incident, then Buyer may terminate the Agreement immediately without notice.
4. **Effect of Termination.** The termination or expiration of this Agreement shall not relieve Seller of its obligations to manufacture and deliver Products for which Orders were issued prior to such termination or expiration (unless such Orders are cancelled by Buyer) or relating to payments and credits due to Buyer hereunder, product liability, indemnifications, parts availability, sales record retention, insurance requirements, product recall obligations or any other obligation which by its nature is intended to survive such termination or expiration. If this Agreement is terminated for any reason, Buyer shall retain all rights in and to any Products and any Special Tooling (as defined below). Upon termination or expiration of this Agreement, Buyer reserves the right to purchase up to eighteen (18) months' worth of Products from Seller at the Purchase Price in effect as of the date of the notice of termination or expiration. The maximum number of Products that Buyer may purchase pursuant to this provision will be the number of Products purchased by Buyer over the eighteen (18) months immediately preceding the month in which the notice of termination or expiration of this Agreement is given. The Products purchased pursuant to this provision may include any acceptable inventory being held by Seller. This purchase will be made and delivered to Buyer at the agreed to lead-time and shall be subject to all of the other terms and conditions set forth in this Agreement.
5. **Most Favored Customer.** If at any time during the Term Seller offers a combination of lower prices and/or greater allowances, incentives, rebates, discounts or anything else of value whatsoever (collectively, "Discounts") as compared to the Purchase Prices hereunder to any other Similar Customer (as defined below), the same Discounts shall be offered to Buyer and this Agreement and any and all outstanding Orders shall be automatically amended, without further action of the Parties, to provide such Discounts from the date the same are offered to such Similar Customer. "Similar Customer" shall mean, as compared to Buyer, a customer of Seller purchasing a similar or lesser volume of Products or products similar to the Products and subject to similar material terms and conditions, including contract duration.
6. **Products; Quality Assurance.**

The Products covered by this Agreement are manufactured by Seller and conform to Seller's Product specifications, performance criteria and drawing references and any specifications, performance criteria and/or drawing references provided by Buyer ("Specifications"). Buyer may change the Specifications in its sole discretion from time to time with notice to Seller. Seller shall not change the Products' Specifications unless Seller has provided Buyer with at least ninety (90) days' prior written notice stating the type of change to be made to the Products. If Buyer is not satisfied, in its sole discretion, with the material changes, the Parties shall then meet within fifteen (15) days and negotiate in good faith to reconcile their differences. In the event that the Specifications are changed, all references herein to the Products shall be deemed automatically to include such changes. Seller shall offer to Buyer for inclusion in the Products any design improvements or additional features as may be developed by Seller during the Term. Specifications given by Buyer do not, and shall not, constitute a warranty, express or implied, by Buyer to Seller against any claims whatsoever; and Buyer shall not be responsible to Seller in any way, as indemnitor or otherwise, for, or on account of, any such claims or liability.

Buyer reserves the right to review Seller's performance under this Agreement. Seller shall promptly furnish to Buyer all information or material that Buyer may reasonably request to determine if Seller meets current quality standards and Specifications. Seller shall promptly notify Buyer of the occurrence of any event or the change of any circumstances that may affect Seller's ability to perform under this Agreement. Buyer shall have the right, following reasonable notice, to inspect Seller's facilities during normal business hours. Upon Buyer's request, Seller shall ship to Buyer, freight prepaid by Seller, samples of Products in reasonable quantities for testing to determine compliance with the Specifications, which testing shall be at Seller's reasonable expense. Seller will work toward a quality control process that will provide results delivered to Buyer to avoid the need for an onsite inspection.
7. **Shipment and Delivery; Alternate Source; Inventory Management.**

The Delivery Term for Products shall be as set forth in the body of this Agreement. Subject to Buyer's right to later reject defective, damaged, or unordered Products as set forth below: (a) risk of loss shall pass from Seller to Buyer in accordance with the Delivery Term set forth in the body of this Agreement and (b) title shall transfer from Seller to Buyer as and when risk of loss is transferred from Seller to Buyer. Buyer has no obligation to obtain insurance while the Products are in transit from Seller's facility to Buyer's facility.



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All Products shall be (a) suitably packed or otherwise prepared by Seller for shipment to prevent damage, to obtain the lowest transportation and insurance rates, and to meet the carrier's requirements and (b) shipped in accordance with the instructions on the Order with respect to such Products. Seller's name, complete "ship to" address and Order number must appear on all invoices, bills of lading, packing slips, cartons and correspondence. Bills of lading are to be attached to invoices submitted, showing carrier, number of cartons and weight and date of shipment. Packing slips will accompany all shipments listing the contents of the shipment in detail.

Product lead times shall be as set forth in the body of this Agreement and Products shall be delivered on the delivery dates set forth in each applicable Order, provided that Products will be deemed to have been delivered "on time" pursuant to this Agreement if delivered within the On-Time Delivery Period set forth in the body of this Agreement. Time is of the essence with respect to deliveries and Seller shall be responsible for meeting one hundred percent (100%) on-time delivery.

Buyer may reject any delivery or cancel all or any part of any Order if Seller fails to make delivery in conformity with the terms and conditions hereof including, without limitation, any failure of Products to conform to the Specifications. Acceptance by Buyer of any non-conforming delivery shall not constitute a waiver of its right to reject future deliveries. In the event that Seller (a) fails to supply the Products (b) fails to supply any Product meeting Specifications and/or (c) fails to meet Buyer's delivery schedules and/or delivery requirements, and Seller does not provide a comparable quality substitute (for which substitution Seller will assume all expense and price differential) then in addition to all other remedies available to Buyer at law and/or in equity, Buyer may, as Buyer deems necessary or advisable in its sole discretion, purchase the Product from another supplier as an alternate source to Seller. In such event, Seller shall reimburse Buyer for all additional costs and expenses incurred by Buyer in purchasing the Product from such other supplier including without limitation the price difference with respect to such Products. Upon identification and notification of defective Products or nonconforming shipments, Buyer shall receive full credit either for scrap or return, which credit shall include full costs paid to Seller, together with shipping, processing and related costs, if applicable. Within one (1) week after the shipment of defective Product, Seller shall submit to Buyer a written explanation of the root cause and corrective actions implemented to prevent reoccurrence.

It is not the intent of Buyer to dictate the amount of inventory that Seller shall carry during the Term. Buyer will provide Seller with information on a timely basis as to average usage and potential abnormal demands of Buyer and it shall be the responsibility of Seller to maintain enough Products to meet Buyer's projected needs in the agreed upon lead times.

Seller shall provide consignment material as requested by Buyer to be placed on Buyer's property, but not billed until used. Such consignment shall be subject to the terms and conditions contained in Buyer's standard consignment agreement. The Products on consignment will be mutually agreed. Inventory will be released as agreed with each Buyer location.

8. Product Warranties.

Seller warrants to Buyer that the Products shall be processed, manufactured and labeled using first-class manufacturing practices, in accordance with Applicable Law. For purposes of this Agreement, "Applicable Law" shall mean any applicable statute, law, regulation, ordinance, order, decree or the like promulgated by any governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, or judicial or administrative body, whether federal, state, or local or in a foreign country having jurisdiction over the Parties (collectively, a "Governmental Authority").

Seller shall handle the Products properly up to the time of acceptance by the authorized representative or designated agent of Buyer.

Seller warrants to Buyer that from the date of delivery and continuing for a period of twenty-four (24) months from the date of manufacture of the relevant Buyer product into which the Products are incorporated ("Warranty Period"), the Products will conform to applicable Specifications, drawings, part numbers, samples, prototypes or other rendered descriptions and are, or shall be, fit and sufficient for the purpose intended; that they are merchantable, of the highest quality, and free from defects, whether patent or latent in materials, workmanship, design and production; and that Seller's service level shall be performed in a professional and workmanlike manner in conformity with Applicable Laws and the highest standards of quality in the industry and in a manner so as to ensure the safety of all persons and the preservation of property.

If the Products, or any part of them, do not comply at any time during the Term or Warranty Period with the foregoing paragraphs of this Section 8, Buyer shall have the right, in addition to all other remedies available to Buyer at law and/or in equity, to reject the Products or to cancel the Order or to retain the Products and recover damages from Seller, including but not limited to labor and return shipping costs, for such breach of warranty and, in such event, continued use of such Products by Buyer shall not constitute a waiver of Seller's breach of warranty.

Notwithstanding anything to the contrary contained herein, in the event of an Epidemic Failure, as defined in the body of this Agreement, Seller will be fully responsible for all costs associated with the repair or replacement of Products.

The foregoing warranties shall be in addition to all other warranties made by Seller, express or implied. All warranties shall succeed to Buyer, its permitted successors, assigns, and all persons, including subsidiaries and/or Buyer Affiliates, to whom the Products may be sold or resold. All warranties contained in this Agreement shall survive the termination or expiration of this Agreement.

9. Spare Parts: Discontinued Products.

Seller agrees that it shall maintain an inventory of replacement parts sufficient to keep the Products operating properly on a global basis and will make such parts available to Buyer. Seller shall establish a list of recommended spare parts, assemblies and tools required for the servicing of Products sold to Buyer (collectively, the "Spare Parts"). Seller shall make available for purchase by Buyer Spare Parts for a period of ten (10) years from the date the Product is sold to Buyer with respect to all functional and non-functional parts. Seller shall publish the standard list prices for Spare Parts from time to time. Buyer may purchase Spare Parts at a sixty-five percent (65%) discount from Seller's published list prices, and Seller shall provide packaging for parts approved by Buyer.

Any defective or nonconforming Spare Parts received by Buyer from Seller shall be replaced by Seller at no additional charge. Seller shall supply together with deliveries of Spare Parts, all cartons, packing materials and literature necessary to repack repaired or returned Products.

In the event that a model of a Product or parts of any model of a Product shall be discontinued or become obsolete, Seller shall advise Buyer and provide Buyer an opportunity to purchase a reasonable supply thereof. Buyer shall advise Seller within ninety (90) days after the notice from Seller with respect to discontinued or obsolete models or parts, the number of Products or replacement parts Buyer may require, and Seller will use its best efforts to make available to Buyer that number of Products or parts. This provision shall not relieve Seller of its obligations under the first paragraph of this Section 9.

Seller shall provide, at no additional cost, technical or installation information requested to support Buyer's service network.

10. Tooling and Test Equipment.

Seller at its own expense shall furnish, keep in good condition, insure and replace when necessary all tooling and other materials not used solely by Seller for the manufacture of the Products ("General Tooling") per the terms of this Agreement.

Special tooling used by Seller solely for the manufacture of the Products ("Special Tooling") shall be owned by Buyer. Buyer shall purchase any such Special Tooling, or shall reimburse Seller in the event Seller has purchased Special Tooling at Buyer's direction. Seller shall keep Special Tooling in good condition, normal wear and tear excepted, and shall insure, repair, and/or replace any lost or damaged Special Tooling. Upon the termination or expiration of this Agreement, Seller shall promptly ship all Special Tooling to the location designated by Buyer.

Buyer may provide Seller, or instruct Seller to purchase (in which case Buyer will reimburse Seller), test equipment related to the development, testing, or manufacture of a Product ("Test Equipment"). Seller shall keep any such Test Equipment in good condition, normal wear and tear excepted, and shall insure, repair, and/or replace any lost or damaged Test Equipment. In the event Test Equipment is no longer needed for Seller to manufacture a given Product, or upon the termination or expiration of this Agreement, Seller shall promptly ship all Test Equipment to the location designated by Buyer.

Seller will prepare a plan for Buyer's approval (said approval not to be unreasonably withheld) listing the spare parts that Seller will maintain for General Tooling, Special Tooling, and Test Equipment ("Preventative Maintenance Plan"). Upon Buyer's approval, Buyer will reimburse Seller for the Special Tooling and Test Equipment spare parts. Seller will maintain the General Tooling, Special Tooling, and Test Equipment spare parts in accordance with the terms of the Preventive Maintenance Plan. In the event Test Equipment is no longer needed for Seller to manufacture a given Product, Seller shall promptly ship the related spare parts for that Test Equipment to the location designated by Buyer. Upon the termination or expiration of this Agreement, Seller shall promptly ship all Special Tooling and Test Equipment spare parts to the location designated by Buyer.

11. Product Recall and Retrofit. At its sole cost, Seller shall be responsible for obtaining all regulatory approvals for the Products from the Governmental Authorities. Seller shall maintain a Product recall procedure to be instituted in the event that any Product is found to contain a defect or product hazard or not to be in compliance with any Applicable Law, standard or requirement so as to require or make advisable, in Buyer's sole discretion, that such Product be reported, repaired or recalled. Pursuant to such procedure Seller shall undertake all obligations imposed upon it by such Applicable Law, and shall file all necessary papers, corrective action programs and other related documents; provided, however, that, at Seller's expense, Buyer shall cooperate with and assist Seller in any such filing and corrective action, and provided that nothing contained in this Section 11 shall preclude Buyer from instituting its own recall procedure at Seller's cost and/or taking such action as may be required of it under Applicable Law.



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Seller shall perform all necessary repairs, modifications, recalls or replacements at its sole expense. In the event Buyer or Seller reasonably determines it is necessary to recall or field retrofit any Products manufactured or provided by Seller to Buyer, its distributors, dealers, or direct customers (collectively, "Authorized Purchasers") (i) for any reason bearing on their safety, or (ii) for any material non-conformance of any Product with the Specifications therefor in effect at the time such Product is sold, Seller hereby agrees to comply with the recall and/or retrofit procedures reasonably established from time to time by Buyer. Furthermore, Seller agrees to bear all costs and expenses incurred by it in complying with such recall or field retrofit procedures. This Section 11 shall survive the Warranty Period as well as the termination or expiration of this Agreement.

12. **Representations, Warranties, and Covenants.** Seller represents and warrants to Buyer that (a) it has the requisite power, authority and authorization to enter into this Agreement and carry out the terms hereof, (b) the person signing this Agreement on behalf of Seller has the requisite corporate authority, (c) the execution, delivery and performance of this Agreement is not prohibited or impaired by any judgment or other agreement to which Seller is a party or by which it is bound, (d) Seller is, and shall at all times during the Term be, in possession of all approvals necessary to manufacture, render, process, package, label, deliver and sell the Products; (e) Seller has and will have the right to render, sell and deliver all Products to be supplied pursuant to each Order, (f) Seller has and will have ownership rights necessary to convey good and marketable title to the Products, free and clear of all liens and encumbrances upon delivery of the Products to Buyer, and (g) Seller shall at all times comply with Applicable Law pertaining to the manufacture and sale of the Products.

13. **Product Liability; Indemnity; Insurance.**

Seller assumes entire responsibility for the safety of all Products it supplies hereunder. Seller agrees to take reasonable steps to directly warn users of dangers associated with Products. Seller's indemnification of Buyer, the Buyer Affiliates and the Authorized Purchasers includes without limitation indemnification for (i) any claim for damages, injury or loss resulting from use or operation of any Product supplied hereunder, (ii) any failure by Seller to comply with any Applicable Law, and (iii) a breach by Seller of any covenant or term of this Agreement.

Seller hereby agrees to indemnify, defend and hold harmless Buyer, the Authorized Purchasers and each Buyer Affiliate, and each of their respective affiliates, directors, officers, agents and employees (individually, an "Indemnified Party" and collectively, the "Indemnified Parties") from and against, and accepts responsibility for, any claim, demand, cause of action, liability, loss, damage, cost or expense whatsoever (collectively, a "Claim"), including without limitation reasonable attorneys' fees, cost of settlement and any product recalls, which arises directly or indirectly out of or is in any way associated with (i) a defect in the design, manufacture, materials or assembly of the Products regardless of whether such Claim arises within or beyond any warranty period, (ii) personal injuries or property damage arising from the Products, (iii) any failure of the Products and/or Seller to conform to the representations of Seller set forth herein or otherwise made in writing by Seller in connection with the sale and delivery of the Products, and (iv) any actions or inactions of Seller, its employees, agents or subcontractors. This indemnity shall survive termination or expiration of this Agreement and shall be in addition to all other indemnities made by Seller. Seller further agrees to pay all costs and expenses, including but not limited to attorneys' fees, which may be incurred by the Indemnified Parties in connection with enforcing any provisions of this indemnity.

Seller shall carry at its expense during the Term and for three (3) years after its termination or expiration, commercial general liability insurance written on an occurrence basis, including without limitation, blanket contractual liability coverage, broad form property damage, fire damage, legal liability coverage, independent contractor coverage, personal injury coverage, operations and products liability coverage, with a combined single limit of not less than five million dollars (\$5,000,000) per occurrence for personal injury and property damage. Seller shall maintain umbrella/excess liability insurance on an occurrence basis at least equivalent to the underlying commercial general liability insurance and which is at least as broad. The amounts of insurance required herein may be satisfied by Seller purchasing coverage for the limits specified or by any combination of underlying and umbrella limits so long as the total amount of insurance is not less than five millions dollars (\$5,000,000) per occurrence. Coverage should be placed with a reputable and financially responsible carrier or carriers with a minimum A.M. Best rating of A+. Seller shall cause its insurers to endorse the required insurance hereunder to waive any rights of subrogation against the Indemnified Parties. This insurance shall name Buyer as an additional insured under an "Additional Insured-Vendors" endorsement, shall be primary over any insurance maintained by Buyer, and shall provide that should any of the policies described herein be materially modified, the insurer shall endeavor to mail to Buyer at least thirty (30) days' prior written notice of such material modification. Upon execution of this Agreement, and thereafter upon Buyer's request, Seller shall provide Buyer with a Certificate of Insurance evidencing the coverage herein required, and identifying the "Certificate Holder" as Buyer. Seller shall mail all Certificates of Insurance to Buyer in accordance with Buyer's instructions. Should Seller fail to adhere to the requirements of this paragraph, Buyer may order any such insurance and charge the cost thereof to Seller, which amount shall be due and payable by Seller upon demand.

By requiring insurance herein, Seller does not represent that the coverage and limits will necessarily be adequate to protect the Indemnified Parties, and insurance effected or procured by Seller shall not reduce or limit its contractual obligation to indemnify, defend and hold harmless the Indemnified Parties for Claims as set forth above. Seller and Buyer agree to fully cooperate, participate and comply with all reasonable requirements and recommendations of the insurers and insurance brokers issuing or arranging for the issuance of the insurance policies required hereunder, in all areas of safety, claims reporting and investigating, and audit procedures.

In the event that Seller has any self-insured retentions or deductibles under any of the minimum required coverage, Seller must identify on the Certificate of Insurance the nature and amount of such self-insured retentions, deductibles and provide satisfactory evidence of financial responsibility for such obligations. All self-insured retentions or deductibles shall be the sole responsibility of Seller and are subject to approval by Buyer in its reasonable judgment.

14. **Audit.** Buyer shall have the right from time to time to have a third party audit Seller's records to determine if Seller is in compliance with the terms of this Agreement. If any audit discloses any overcharges or underpayments by Seller, it shall promptly make restitution to Buyer therefor, plus interest at the rate of 1.5% per month. If such restitution payments are greater than the cost of the audit, Seller shall be liable for the cost of the audit.
15. **Intellectual Property; Patents.**

Seller hereby acknowledges that Buyer or the applicable Buyer Affiliate, as the case may be, is the owner of its labeling, trademarks, distributive works, logos, pictures or designs, or other proprietary designations (the "Buyer Marks") and has exclusive rights to use such marks within the United States and internationally. Seller will not use Buyer Marks or names including Buyer's name or the name of any Buyer Affiliate in any advertising, publicity, promotional material, press releases, sales material or as a reference or disclose the existence of this Agreement, or the terms hereof, without obtaining Buyer's or the applicable Buyer Affiliate's prior written approval of such use.

Seller represents that the Products do not and shall not infringe upon any trademark, patent, copyright or any similar property rights (collectively "Intellectual Property Rights"). Seller shall defend, indemnify and hold harmless Buyer, its officers, directors, employees, agents, Authorized Purchasers and all Buyer Affiliates and each of their officers, directors, employees, agents and authorized purchasers from and against all costs, damages and expenses (including reasonable attorneys' fees) incurred in connection with any claim, demand, suit or proceeding based on a Claim that the marketing, advertising, use or sale of any Product constitutes an infringement of any Intellectual Property Rights of any third party as to the Products. In the event that the Products infringe the Intellectual Property Rights of any third party, in addition to the indemnity provided in the previous sentence, Seller at its own expense and option shall either (i) procure for Buyer, the Buyer Affiliate and the Authorized Purchasers the right to continue using or selling the Products, (ii) replace them with non-infringing Products, or (iii) accept return of the enjoined Products and refund the full purchase price (and shipping costs).

As part of the consideration for entering into this Agreement, Seller agrees that all information, including documentation related to the Products and other data or materials generated or developed by Buyer or jointly by Seller and Buyer under this Agreement related to the Products or otherwise furnished by Buyer to Seller before or during the Term ("Development Information") shall be and remain the sole property of Buyer. Furthermore, Seller agrees that any and all inventions and/or innovations developed, derived or conceived by Seller, or others under Seller's direct or indirect control, relating to development and/or Products under this Agreement (whether or not patentable and whether made solely by Seller or jointly with others) shall be and remain the exclusive property of Buyer or its nominees (collectively "Developments"). Seller shall promptly inform Buyer of any Developments which it or others under Seller's direct or indirect control develops, derives or conceives during the Term. Seller will promptly assist Buyer in all of its efforts seeking to protect any and all intellectual property in such Developments, at Buyer's expense, in any and all countries of the world. Development Information shall be included as Buyer's Confidential Information as defined in this Agreement and shall be treated as such.

Seller specifically agrees that all copyrightable material generated or developed under this Agreement related to the activities described herein shall be considered works made for hire and that such material shall, upon creation, be owned exclusively by Buyer. To the extent that any such material, under Applicable Law, may not be considered works made for hire, Seller hereby assigns to Buyer the ownership of copyright in such materials, without the necessity of any further consideration, and Buyer shall be entitled to obtain and hold in its own name all copyrights in respect of such materials.

If and to the extent Seller may, under Applicable Law, be entitled to claim any ownership interest in the Development Information, inventions, innovations or other data or materials generated or developed by Seller under this Agreement and related to the Developments and/or Products, Seller hereby transfers, grants, conveys, assigns, and relinquishes exclusively to Buyer all of Seller's right, title, and interest in and to such Developments, including, but not limited to, rights granted under patent, copyright, trade secret, trademark, and/or common law, in perpetuity or for the longest period otherwise permitted by Applicable Law.

Seller shall perform, or cause others under Seller's direct or indirect control to perform, any reasonable acts that may be deemed necessary or desirable by Buyer to evidence more fully the transfer of ownership of all right, title and interest in and to such Developments under this Agreement to Buyer to the fullest extent possible, including, but not limited to, the making of further written assignments in a form determined by Buyer.



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Seller hereby represents and warrants that it has full right and authority to perform its obligations and grant the rights and licenses herein granted, and that it has neither assigned nor otherwise entered into an agreement by which it purports to assign or transfer any right, title, or interest in any technology or intellectual property right that would conflict with its obligations under this Agreement. Seller further covenants and agrees that it shall not enter into any such agreements in the future without advanced written agreement from Buyer.

Seller agrees that it shall have and maintain, during performance of this Agreement, written agreements with all employees, contractors, or agents engaged by Seller in performance hereunder, granting Seller rights sufficient to support all performance and grants of rights by Seller under this Agreement. A copy of such agreements shall be provided to Buyer promptly upon request, along with a statement from Seller identifying the individuals and/or entities that have signed said agreements.

16. **Force Majeure.** Any delay or failure of either Party to perform its obligations under this Agreement will be excused to the extent that the delay or failure was caused directly by an event beyond such Party's control, without such Party's fault or negligence and that by its nature could not have been foreseen by such Party or, if it could have been foreseen, was unavoidable (which events may include natural disasters, embargoes, explosions, riots, wars or acts of terrorism) (each, a "Force Majeure Event"). Seller's financial inability to perform, changes in cost or availability of materials, components or services, market conditions or supplier actions or contract disputes will not excuse performance by Seller under this Section. Seller shall give Buyer prompt written notice of any event or circumstance that is reasonably likely to result in a Force Majeure Event, and the anticipated duration of such Force Majeure Event. Seller shall use all diligent efforts to end the Force Majeure Event, ensure that the effects of any Force Majeure Event are minimized and resume full performance under this Agreement. In addition to its other termination rights as set forth herein, if a Force Majeure Event affecting Seller's performance of this Agreement or any Order continues for more than sixty (60) days, then Buyer may terminate this Agreement and any or all pending Orders upon written notice to Seller.
17. **Affirmative Action and Seller Diversity Program.** Unless this Agreement is exempted by the Rules and Regulations of the Secretary of Labor issued pursuant to Section 201 of Executive Order 11246, there is incorporated herein by reference, subsections 1-7 of Section 202 of Executive Order 11246, as amended, and the provisions set forth at 41 C.F.R. § 60.741.5(a) and 41 C.F.R. § 60-250. Seller, if covered by Executive Order 11246 and its regulations, by execution of this Agreement, hereby certifies that it is in full compliance with Executive Order 11246, as amended, and 41 C.F.R. § 60-250, 60-74 1, and that it will remain in full compliance for the Term. Seller shall post in conspicuous places available to employees and employment applicants notices setting forth the provisions of this clause. In the event Seller is a certified minority- and/or women-owned business, Seller shall submit a copy of its relevant certification prepared by a certifying organization. If, in connection with the manufacture and distribution of the Products, Seller has business relationships with certified minority or women-owned businesses, and maintains records with respect thereto, Seller shall, (a) submit a list of such certified minority- or women- owned businesses together with a copy of the relevant certification prepared by a certifying organization, and (b) report the estimated annual dollar amount impact thereof.
18. **Confidential Information.** Each Party acknowledges that during the Term it may obtain or have access to information about the other Party that is proprietary or confidential in nature ("Confidential Information"). Confidential Information may be used by the Parties only in carrying out the purposes of the Agreement. Each Party agrees that it will maintain the confidentiality of and not disclose to third parties or use, without the prior written consent of the other Party, the other Party's Confidential Information (except to make necessary disclosures to the disclosing Party's employees, lenders, counsel, accountants, or consultants who have a need to know such information). Each Party shall be responsible for the unauthorized disclosure of any Confidential Information by its employees and agents. For purposes of this Section 18, Confidential Information does not include information that (i) now is, or hereafter becomes, publicly known through no fault of the receiving Party, (ii) was in the possession of the receiving Party before, or at the time of, disclosure and was not previously obtained from the other Party, or (iii) otherwise lawfully becomes available to the receiving Party from another source. The obligations of this Section 18 shall survive the termination or expiration of this Agreement for a period of five (5) years. Notwithstanding the preceding sentence, each Party's obligations of confidentiality hereunder with respect to Confidential Information that constitutes a trade secret shall continue to apply so long as such Confidential Information continues to constitute a trade secret under Applicable Law.
19. **RoHS, WEEE, REACH and Solid Wood Packaging Material.** Seller is and remains solely responsible for the full compliance of delivered Products or parts of Products with any applicable rules and regulations ("Legislations") on restriction of hazardous substances ("RoHS") such as Directive 2002/95/EC as of 27 January 2003, the Administrative Measures on the Control of Pollution Caused by Electronic Information Products as of 28 February 2006, etc. and all further releases as well as all national or local regulations issued in execution of the aforesaid RoHS Legislations. Therefore all delivered Products or parts of Products must be suitable and fit for RoHS compliant production and sale. Seller will complete and sign Buyer's standard Declaration of RoHS Compliance at the part number level, use appropriate systems and processes to ensure the accuracy of these determinations and maintain appropriate records to allow traceability of all Products or parts of Products. Insofar as Products or parts of Products are not supplied in accordance with the aforementioned requirements, Buyer reserves the right to cancel this Agreement and any Orders issued hereunder. Seller undertakes to duly and immediately inform Buyer of any changes affecting RoHS compliance. In case of cancellation of this Agreement and/or any Orders issued hereunder or proven violations of national or international RoHS compliance by Seller, Seller undertakes to indemnify and hold Buyer harmless from any claim, liability, loss, damage, judgment and external responsibility, irrespective of their legal ground, and to bear any and all harm, loss or damage arising to Buyer's disadvantage in the event of infringement. To the extent required by applicable law, Seller shall be responsible for the collection, treatment, recovery or disposal of (a) the Products or any part thereof when they are deemed by law to be 'waste' and (b) any items for which the Products or any part thereof are replacements. If Seller is required by Applicable Law, including waste electrical and electronic equipment Legislations, European Directive 2002/96/EC ("WEEE") and related Legislations in EU Member States, to dispose of 'waste' Products or any part thereof, Seller shall dispose of such Products entirely at its own cost (including all handling and transportation costs). Seller is and remains solely responsible for the full compliance of delivered Products, parts of Products or substances with the requirements of Regulation (EC) No. 1907/2006 ("REACH") as of 18 December 2006 as amended or varied and all further releases as well as any national regulations issued in execution of REACH. Seller guarantees that all obligations under REACH, in particular all information requirements vis-à-vis Buyer, have been fulfilled. This includes in particular the provision of a due and comprehensive safety data sheet in accordance with REACH. Insofar as Products, parts of Products or substances are not supplied in accordance with the aforementioned requirements, Buyer reserves the right to cancel this Agreement and any Orders issued hereunder. Seller undertakes to duly and immediately inform Buyer of any changes affecting REACH compliance. In case of cancellation of this Agreement or any Orders issued hereunder or proven violations of national or international REACH compliance regulations by Seller, Seller undertakes to indemnify and hold Buyer harmless from any claim, liability, loss, damage, judgment and external responsibility, irrespective of their legal ground, and to bear any and all harm, loss or damage arising to Buyer's disadvantage in the event of infringement. Seller shall comply with all International Plant Protection Convention ("IPPC") regulations on solid wood packaging material ("SWPM") as outlined in ISPM-15 and elsewhere. Seller shall ensure, and provide appropriate certification, that all SWPM shall be marked with the IPPC logo, country code, the number assigned by the natural plant protection organization and the IPPC treatment code.
20. **Supply Chain Security.** Seller represents, warrants and covenants that it has reviewed its supply chain security procedures and that these procedures and their implementation are in accordance with the criteria set forth by the Customs-Trade Partnership Against Terrorism ("C-TPAT") program of the U.S. Bureau of Customs and Border Protection.
21. **IMMEX.** If Seller is delivering products in Mexico, Seller is and remains solely responsible for full compliance with IMMEX program regulations as well as all applicable sections of the Foreign Trade General Rules (*Reglas de caracter Generalen Materia de Comercia Exterior*). The policy and procedures of Buyer for such compliance may be found at <https://supplier.nidec-motor.com/SupplierSSP/> and Seller agrees to remain in compliance with such policy and procedures.
22. **Conflict Minerals.** Seller shall supply all certifications and information relating to "Conflict Minerals" requested for purpose of compliance with Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and shall comply with all applicable provisions of the aforesaid Act.
23. **Choice of Law; Venue; Miscellaneous.** This Agreement shall be governed by the laws of the State of Missouri, USA, applicable to contracts to be formed and fully performed within the State of Missouri, without giving effect to the choice or conflicts of law provisions thereof. All suits arising from or concerning this Agreement or any Order issued hereunder shall be filed exclusively in the Circuit Court of St. Louis County, Missouri, or the United States District Court for the Eastern District of Missouri, and in no other place; provided that, in Buyer's sole discretion, such action may be heard in some other place designated by Buyer (if necessary to acquire jurisdiction over third persons) so that disputes can be resolved in one action. Seller hereby irrevocably consents to the exclusive jurisdiction of such court or courts and agrees to appear in any such action upon written notice thereof. The Parties hereby exclude any and all application of the United Nations Convention on Contracts for the International Sale of Goods and the United Nations Convention on the Limitation Period in the International Sale of Goods, as amended. Nothing contained in this Agreement or any Order issued hereunder will be construed to create a partnership or joint venture among the parties. Seller shall not assign or subcontract any of its rights, interests or obligations hereunder without the prior written consent of Buyer. The paragraph headings herein are for convenience only and form no part of this Agreement. If any part of this Agreement or any Order issued hereunder shall be held to be illegal, void or unenforceable, the remaining portions shall remain in full force and effect. Any and all of the rights and remedies conferred upon Buyer under this Agreement shall be cumulative and in addition to, and not in lieu of, Buyer's rights and remedies granted at law and equity, all of which rights and remedies are fully reserved by Buyer. The failure of Buyer to insist in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement or any Order issued hereunder, or to exercise any right hereunder shall not be construed as a waiver or relinquishment of any of the other terms and conditions of this Agreement or any Order issued hereunder nor the right to enforce the future performance of any term, covenant or condition or the future exercise of any other rights herein. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.