

TERMS AND CONDITIONS OF SALE**I. General**

The respective Zapp Company located in the United States of America ("Seller"), and buyer ("Buyer") named on the face of Seller's quotation, order acknowledgment or invoice, or the contract between Seller and Buyer, to which these Terms and Conditions of Sale ("Terms and Conditions") are attached or provided with (the "Instrument of Sale"), agree that unless otherwise expressly agreed to in writing by Seller, these Terms and Conditions apply to the materials, goods or products (collectively, the "Goods") listed in any accepted purchase order from Buyer or ordered pursuant to any contract between Seller and Buyer.

II. Acceptance/Sole Terms

The provisions set forth herein together with the provisions of the Instrument of Sale constitute all of the terms and conditions of Buyer's order/contract with Seller. Seller's acceptance and shipment of Buyer's order is expressly made conditional on Buyer's assent to these Terms and Conditions. Any and all terms, conditions or provisions specified by Buyer in Buyer's purchase order or otherwise (whether oral, typed, written or printed) that in any way change, modify, amplify, differ from or add to these Terms and Conditions, or Seller's quotation, order acknowledgment or invoice, or any contract between Seller and Buyer, are null and void of no effect, even if (i) Seller does not expressly object to such terms, conditions or provisions, or (ii) such terms, conditions or provisions are specified subsequent to such other documents. Buyer is hereby put on notice that no terms additional to or deviating from these Terms and Conditions shall become part of the contract unless and until written acceptance of such additional or deviating terms, signed by an authorized officer of Seller, has been issued to Buyer. Buyer's acceptance of any Goods supplied by, or on behalf of, Seller shall, without limitation, constitute acceptance of these Terms and Conditions.

III. Price

Payment is due in the currency shown on Seller's invoice within thirty (30) days from the invoice date, unless otherwise indicated on the face of Seller's order acknowledgment or invoice. Prices stated are subject to change, in the event of (i) alterations in specifications, quantities, designs or delivery schedules, (ii) increases in the cost of raw materials or auxiliary materials, (iii) freight (including demurrage charges) (iv) foreign or domestic legislation enacted by any level of government, including tax legislation, which increases the cost of producing, warehousing or selling the Goods purchased hereunder, and/or (v) changes in currency exchange rates. Any such change shall be charged to Buyer's account. No discount will be allowed unless specifically set forth on the face side of Seller's order acknowledgment or invoice. Written quotations automatically expire three (3) days after the date the quotation is issued and are subject to termination by Seller upon notice to Buyer within such three (3) day period. Buyer agrees to pay a delinquency charge of up to one and one half percent (1.50%) per month on the invoiced amounts not paid within thirty (30) days of the invoice date or, if such rate shall exceed the maximum rate permitted by applicable law, then a delinquency charge calculated at such maximum rate permitted by applicable law. Interest shall be payable monthly in arrears on the first day of each month. Terms of payment include those appearing on Seller's order acknowledgment or invoice. In the event of any order cancellation, Seller reserves the right to charge Buyer, and Buyer shall pay, all of Seller's costs through the date of cancellation, including costs of currency commitments or restocking fees. All outstanding payments shall immediately become due and owing should Buyer fail to make any payment when due or should a receiver be appointed for all or any substantial part of Buyer's property or assets, or should a petition in bankruptcy, arrangement or reorganization be filed by or against Buyer pursuant to a provision of any bankruptcy act or any amendments thereto or any insolvency or receivership statute.

IV. Warranty

Seller warrants that all Goods sold hereunder shall meet applicable industry standards at the time in effect with respect to such Goods. Any and all claims by Buyer pursuant to this warranty shall be made by written notice to Seller within thirty (30) days after receipt of such Goods. After the aforesaid notice by Buyer, pursuant to written request by Seller, Buyer shall promptly return samples of the rejected goods to Seller. Seller may inspect such goods and shall, at Seller's option, either credit Buyer's account for the amount of such defective Good or, at its own expense promptly remove any defective Good and replace it.

Integrated Products. In the case, that the Goods will be incorporated into products manufactured by Buyer ("Devices") the parties acknowledge, that Seller shall not be responsible for any claims arising out of any injury to any person or damage to any property that results from or is otherwise related to the Devices. Buyer shall be liable for and shall indemnify and defend and hold Seller and its affiliates, officers, directors, employees and agents harmless from any and all liability, damages or loss from any claims, suits, proceedings, demands, recoveries or expenses, including without limitation, all costs and expenses, including attorneys' fees, in connection with the Devices arising out of (i) the death or injury to any person or damage to property resulting from or related to the design, manufacture, sale or use of any Device or any part thereof; or (ii) any third party claim alleging that the manufacture, use, sale, offer for sale, import or export of any Device infringes or misappropriates the proprietary rights of the third party claimant. The foregoing indemnity is in addition to, and not in limitation of, any other indemnities made by Buyer in favor of Seller herein or in the Instrument of Sale.

V. Warranty Restrictions

THE WARRANTY SET FORTH IN SECTION 4 ABOVE DO NOT COVER NORMAL WEAR AND TEAR AND ARE NON-TRANSFERABLE (PROVIDED, HOWEVER, THAT IF BUYER IS A WHOLESALER, PURCHASING THE GOODS FOR RESALE, THE APPLICABLE WARRANTY MAY BE TRANSFERRED TO THE ORIGINAL RETAIL PURCHASER). IN ADDITION, THE WARRANTY SET FORTH IN SECTION 4 DO NOT APPLY TO ANY WARRANTED GOOD WHICH HAS BEEN SUBJECT TO (A) ACCIDENT, ABUSE, MISUSE, MISHANDLING, NEGLIGENCE, MISAPPLICATION OR IMPROPER MAINTENANCE; (B) A FAILURE CAUSED BY ANY ITEM WHICH SELLER DID NOT PROVIDE OR FOR WHICH SELLER IS NOT RESPONSIBLE; (C) IMPROPER INSTALLATION OR USE; OR (D) ANY UNAUTHORIZED REPAIR, MODIFICATION OR ALTERATION.

VI. Disclaimer of Warranties

THE WARRANTY SET FORTH IN SECTION 4 ARE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED AND APPLY ONLY TO THE GOODS SPECIFIED IN SECTION 4 HEREOF (THE "WARRANTED GOODS"), EXCEPT AS OTHERWISE PROVIDED IN SUCH WARRANTIES, THE WARRANTED GOODS AND ALL OTHER GOODS MANUFACTURED OR SOLD BY SELLER ARE SOLD "AS IS, WITH ALL FAULTS." ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, DESCRIPTION OR QUALITY NOT EXPRESSLY SET FORTH HEREIN, ARE HEREBY EXCLUDED TO THE EXTENT PERMITTED BY LAW. TO THE EXTENT AN IMPLIED WARRANTY CANNOT BE EXCLUDED, SUCH WARRANTY IS LIMITED IN DURATION TO THE MINIMUM PERIOD PERMITTED BY APPLICABLE LAW OR, IF NO SUCH PERIOD IS PROVIDED, TO THE EXPRESS LIMITED WARRANTY PERIOD FOR THE GOOD SET FORTH IN SECTION 4, IF APPLICABLE. NO AFFIRMATION OF SELLER, BY WORDS OR ACTION, OTHER THAN AS SET FORTH IN THIS WARRANTY CLAUSE, SHALL CONSTITUTE A WARRANTY. SELLER MAKES NO GUARANTEE OF THE RESULTS TO BE OBTAINED FROM THE USE OF THE GOODS. GOODS WHICH MAY BE SOLD BY SELLER BUT WHICH ARE NOT MANUFACTURED BY SELLER ARE NOT WARRANTED BY SELLER, BUT ARE SOLD ONLY WITH THE WARRANTIES, IF ANY, OF THE MANUFACTURERS THEREOF.

VII. Further Warranty Provisions and Warranty Return Procedures

- Any warranty claim by Buyer with reference to the Goods shall be deemed waived by such party unless submitted in writing to Seller within the applicable warranty period set forth above.
- Buyer agrees to inspect all Goods immediately upon its receipt thereof. All claims against Seller for a breach of the applicable limited warranty must be submitted to Seller prior to any further processing, assembling or any other work is undertaken.
- No alteration or amendment to the above conditions listed herein shall be binding on Seller except if made in writing duly executed by an authorized officer of Seller.
- Seller shall have no liability for any loss arising out of Goods which conform to written specifications provided or accepted by Buyer and which are agreed upon in writing by Seller, and no liability for any loss, when the Goods conform or not, to specifications not agreed upon in the above manner.
- Buyer agrees to assist with warranty claims from retail purchasers, if applicable.
- All warranty claims require a Returned Material Authorization (RMA) number with explanation of claim, and, if applicable, a copy of the original retail purchaser's receipt. RMAs are obtained by contacting the Seller's sales department.
- At Seller's request, Buyer will send, at their sole expense, any allegedly defective Goods to a location specified by Seller for evaluation along with a warranty claim tag detailing the respective contact information and the nature of the defect or complaint.
- If Seller determines that the defective Goods are not covered under any of Seller's warranties, such Goods will be returned to Buyer and no further action will be taken.

VIII. Limitation of Liability

SELLER'S LIABILITY (WHETHER UNDER THE THEORIES OF BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE) FOR THE WARRANTED GOODS, DURING THE WARRANTY PERIOD, SHALL BE LIMITED TO REPAIRING OR REPLACING SUCH WARRANTED GOODS FOUND BY SELLER TO BE DEFECTIVE WITH NEW OR RECONDITIONED GOODS AT SELLER'S DISCRETION, OR AT SELLER'S OPTION, TO REFUNDING THE PURCHASE PRICE OF SUCH GOODS OR TO GIVING AN ALLOWANCE THEREOF, PROVIDED, HOWEVER, THAT THE COST OF SUCH REPAIRED OR REPLACED GOODS SHALL NOT EXCEED THE TOTAL VALUE OF THE ORDER/CONTRACT. THE PARTIES HERETO EXPRESSLY AGREE THAT BUYER AND THE ORIGINAL RETAIL PURCHASER'S (IF APPLICABLE), SOLE AND EXCLUSIVE REMEDY AGAINST THE SELLER SHALL BE FOR THE REPAIR OR REPLACEMENT OF THE DEFECTIVE WARRANTED GOODS OR, WITH SELLER'S CONSENT, THE REFUND OF THE PURCHASE PRICE OR ALLOWANCE THEREOF. BUYER, ON BEHALF OF ITSELF AND ITS RETAIL PURCHASERS (IF APPLICABLE), HEREBY AGREES THAT THIS EXCLUSIVE REMEDY SHALL NOT BE DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE SO LONG AS THE SELLER IS WILLING AND ABLE TO REPAIR OR REPLACE THE DEFECTIVE WARRANTED GOODS IN THE PRESCRIBED MANNER OR REFUND THE PURCHASE PRICE OR GIVE BUYER OR ITS ORIGINAL RETAIL PURCHASER (IF APPLICABLE), AN ALLOWANCE THEREOF.

IX. Disclaimer of Consequential and Incidental Damages

IN NO CASE WILL SELLER BE LIABLE FOR REMOVAL OR INSTALLATION COSTS, DOWNTIME, THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, DAMAGE TO OTHER PROPERTY, LOSS OF BUSINESS OR PROFITS, LOSS OF PRODUCTION, LOSS OF USE OR ANY OTHER SIMILAR OR DISSIMILAR CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHICH BUYER OR ANY RETAIL PURCHASER, OR ANY OTHER PERSON, CORPORATION, COMPANY OR OTHER ENTITY MAY SUFFER OR CLAIM TO SUFFER OR INCUR OR CLAIM TO INCUR AS A RESULT OF ANY DEFECT IN THE WARRANTED GOODS OR ANY OTHER GOODS MANUFACTURED OR SOLD BY SELLER OR IN ANY CORRECTION OR ALTERATION THEREOF MADE OR FURNISHED BY SELLER OR OTHERS. CONSEQUENTIAL DAMAGES FOR PURPOSES HEREOF SHALL INCLUDE, WITHOUT LIMITATION, LOSS OF USE, INCOME OR PROFIT OR LOSSES SUSTAINED AS THE RESULT OF INJURY (INCLUDING DEATH) TO ANY PERSON OR LOSS OF OR DAMAGE TO PROPERTY (INCLUDING, WITHOUT LIMITATION, PROPERTY HANDLED OR PROCESSED BY THE USE OF THE WARRANTED GOODS OR ANY OTHER GOODS MANUFACTURED OR SOLD BY SELLER). BUYER, ON BEHALF OF ITSELF AND

ITS RETAIL PURCHASERS (IF APPLICABLE), SHALL INDEMNIFY SELLER AGAINST ALL LIABILITY, COST AND EXPENSE WHICH MAY BE SUSTAINED BY SELLER ON ACCOUNT OF ANY SUCH LOSS, DAMAGE OR INJURY.

X. Acceptance of Goods, Delivery and Transportation

Upon Buyer's receipt of shipment, Buyer shall immediately inspect the Goods. Unless Buyer provides Seller with written notice of any claim or shortages or of defects in the Goods, including without limitation any claim relating to quantity, weight, condition, loss or damage thereto, within thirty (30) days after receipt of shipment, such Goods shall be deemed finally inspected, checked and accepted by Buyer. Unless otherwise agreed in writing, all shipments are made F.O.B. Shipping Point. Seller will determine the point of origin of shipment. In the absence of shipping and packing instructions, Seller shall use its own discretion in choice of carrier and method of packing. Seller shall not be responsible for insuring shipments unless specifically requested by Buyer and any insurance so requested shall be at Buyer's sole expense. Seller expressly reserves the right to overship or undership Goods by up to ten (10%) percent. Any delivery date quoted to Buyer is only an estimate based on present scheduling requirements. Seller shall have the right to make partial deliveries and to be paid, pro rata, for the goods so delivered notwithstanding the existence of a specific delivery schedule which is stated to be of the essence, nor of the fact that any partial delivery is made in advance of such schedule. Seller reserves the right, with respect to each delivery, to make deliveries in installments. All such installments may be separately invoiced and paid for when due, without regard to subsequent deliveries.

XI. Title and Risk of Loss

Title to any Goods sold and risk of loss of such Goods passes to Buyer upon delivery by Seller to carrier, and any claims for losses or damage shall be made by Buyer directly to carrier.

XII. Credit Terms

All orders and shipments shall at all times be subject to the approval of Seller's credit department. If, subsequent to the confirmation of order, circumstances arise with respect to the financial condition of Buyer which in the opinion of Seller threaten Buyer's ability to make payments when due hereunder, or should Buyer fail to make payments when due or otherwise fail to perform its outstanding obligations, then Seller may refuse to perform further hereunder unless Buyer makes payment in full or provides sufficient security in a form acceptable to Seller within a period of ten (10) business days from receipt of notice hereof by Seller. Should Buyer fail to comply with Seller's request contained in such notice within the aforementioned period, then Seller may terminate the contract, defer or cancel the order and/or recover damages based on Buyer's breach and, in such event, Seller shall not be liable for breach or nonperformance of this contract in whole or in part. Seller's failure to exercise any right accruing from any default of Buyer shall not constitute a waiver of Seller's rights and shall not impair Seller's rights with respect to a particular default or in case of any subsequent default of Buyer.

XIV. Costs of Collection

If at any time, Seller or its affiliates, successors or assigns incur any legal expenses or other costs or expenses in connection with (i) any litigation, contest, suit, dispute, proceeding or action in any way relating to the Collateral, (ii) any attempt to enforce any of their rights against Buyer or any other person which may be obligated to them hereunder, or (iii) any attempt to inspect, verify, protect, preserve, restore, collect, sell, liquidate or dispose of the Collateral, then, in any such event, the expenses and costs (including attorney's fees) relating to any of the foregoing events or actions shall be payable by Buyer on demand and shall be considered additional obligations hereunder secured by the Collateral. Seller reserves the right to revoke any credit extended to Buyer at any time because of Buyer's failure to pay for any goods when due or for any reason deemed good and sufficient by Seller.

XV. No Insurance

Unless otherwise expressly set forth in the Instrument of Sale, Seller is neither providing, nor offering to provide, directly or indirectly, any first or third party insurance coverage in connection with the sale of the Goods to Buyer.

XVI. Taxes

Any sales, use or similar taxes, export or custom charges, tariffs, fees or other levies, taxes, duties, governmental charges or surcharges now or hereafter imposed under any present or future law in connection with the production, sale, delivery, use or proceeds of the Goods, including without limitation any equipment, accessories, and attachments (including replacements thereof or spare or replacement parts thereof), any installation, repair, maintenance and instructional services, and any processes or know-how (whether patentable or otherwise) and software, shall be payable by Buyer, and if such taxes or fees are paid or are required to be paid by Seller, the amount thereof shall be added to and become part of the price payable by Buyer hereunder, unless Buyer provides Seller with a valid tax exemption certificate.

XVII. Packaging

Prices stated are based on Seller's standard packaging. Seller reserves the right of packaging the Goods in pallets, bulk or individual cartons. Packaging will be standard commercial package and acceptable to commercial carriers. Special Buyer packaging will be furnished only when specified, and the cost thereof shall be borne by Buyer.

XVIII. Delays

Unless expressly specified to the contrary, Goods in stock will be shipped immediately, and Goods not in stock will be shipped as soon as possible. However, all shipping dates are approximate, and are based upon current availability of materials, present production schedules, and prompt receipt of all necessary information. When an order exceeds quantity of Goods in stock, backorders are created automatically. **All backorders are left open until fulfillment is possible, unless expressly cancelled by Buyer in writing prior to shipping. Buyers who in general do not accept backorders must inform Seller in writing so that Buyer accounts can be set up properly.** Seller will not be liable for any damage, loss, fault, or expenses arising out of delays in shipment or other nonperformance of these Terms and Conditions caused by or imposed by (a) strikes, fires, disasters, riots, terrorist act or acts of God, (b) acts of Buyer, (c) shortages of labor, fuel, power, materials, supplies, transportation or manufacturing facilities, (d) governmental action, (e) subcontractor or supplier delay including, but not limited to, failure by subcontractor or supplier to make timely delivery, or (f) any other cause or condition beyond Seller's reasonable control. In the event of any such delay or nonperformance, Seller may, at its option and without liability, cancel all or any portion of the contract and/or extend any date upon which any performance hereunder is due.

XIX. Termination, Cancellation and Changes

Except as otherwise provided herein or in the Instrument of Sale, orders cannot be terminated, cancelled or modified, or shipment deferred after acceptance of Buyer's order by Seller, except with Seller's written consent and subject to reasonable charges for expenses incurred and work executed by Seller or its suppliers. Buyer shall be obligated to accept any portion of the Goods shipped or delivered by Seller pending Seller's written approval of cancellation. Orders for custom made material may not be canceled after Seller has been in production, unless Seller agrees in writing.

XX. Non-Warranty Related Returns

Delivered Goods returned to Seller must be pre-authorized by Seller and require a RMA number. Handling, inspection, restocking and invoicing charges will be assessed, if applicable, plus any outgoing packing and freight expenditures paid by Seller. All returns allowed must be shipped to Seller prepaid and fully insured and must be in excellent resale condition. Discontinued Goods and Goods processed to Buyer's specifications are not returnable.

XXI. Confidentiality

All files records, documents, drawings, specifications, data, equipment, intellectual property, and other similar items relating to the business of Seller, including, but not limited to employee training information, customer lists and contacts, marketing methods, identity of vendors and suppliers, cost of materials, manufacturing processes and techniques, computer data, scientific studies, analysis, and conclusions, performance and other technical data, and sales and pricing information, (collectively "Confidential Information"), is, and shall remain, the sole and exclusive property of Seller. Buyer shall not misappropriate, disclose, divulge, communicate, or otherwise misuse, directly or indirectly, any Confidential Information in any fashion, form or manner to any person, firm, partnership, corporation, or other entity, unless expressly authorized by Seller in writing.

XXII. Indemnification

Buyer shall hold harmless, defend, save, and indemnify Seller, its parent, subsidiary, and affiliated companies, and its and their agents, employees, officers, directors, and its and their respective heirs, assigns, successors and executors from and against any and all liability, claims, demands, whether groundless, false or fraudulent, costs (including expert and attorney's fees), damages, losses, judgments or awards, arising out of or in any way connected with their act or omission of Buyer. The duty to defend as provided herein is separate and distinct from the duty to indemnify, and shall arise immediately upon the tender of any third party claim or demand, and shall continue until it is conclusively proven that there is no possibility for indemnity.

XXIII. Export Laws

The Instrument of Sale and these Terms and Conditions relate to products and technical data (together, the "Products and Technical Data") that may be subject to export controls under the laws and regulations of the United States. Products and Technical Data that are commercial or have dual-uses (and are not subject to ITAR (defined below)) may be controlled under the United States Export Administration Regulations ("EAR"), available at <http://www.access.gpo.gov/bis/index.html>, while Products and Technical Data that are inherently military in nature may be controlled under the International Traffic in Arms Regulations ("ITAR"), available at http://pmdtc.state.gov/regulations_laws/itar_official.html. Buyer shall at all times comply with the EAR and the ITAR, as well as the Arms Export Control Act, the Trading with the Enemy Act, the International Emergency Economic Powers Act, the Foreign Assets Control Regulations and any other applicable law or regulation governing the export, transfer, use or re-export of the Products and Technical Data. In connection therewith, Buyer agrees that it will not export, directly or indirectly, Products and Technical Data to any country or foreign national for which the United States Department of Commerce, Department of State or Department of Defense, or any other agency of the United States, at the time of export requires an export license, permit, authorization or other governmental approval, without first obtaining such license, permit, authorization or other governmental approval from the applicable agency. Buyer also agrees that it will not conduct business activities without the authorization of the United States government with those countries and political regimes restricted pursuant to the Office of Foreign Assets Control Country Sanctions Programs, available at <http://www.ustras.gov/offices/enforcement/ofac/programs>; and those individuals and entities set forth on the Entity List, the Denied Persons List, the Unverified Persons List, the Specially Designated Nationals List, the Debarred List and the Nonproliferation Sanctions list available at <http://www.bis.doc.gov/compliance/enforcement/liststoccheck.htm>. Buyer hereby acknowledges that Buyer is familiar with the export laws and regulations referenced in this paragraph and understands their provisions. Buyer's failure to comply in all respects with the requirements of this paragraph and the export laws and regulations referenced herein shall constitute a

material breach of the Instrument of Sale and these Terms and Conditions entitling Seller to immediately suspend or terminate same.

XXIV. Compliance with the Foreign Corrupt Practices Act

Buyer agrees to comply in all respects with the U.S. Foreign Corrupt Practices Act of 1977 ("FCPA"), as amended, which makes it unlawful for any U.S. company or any officer, director, employee, agent or stockholder thereof acting on behalf of such U.S. company to directly or indirectly offer to pay any bribe, gift or thing of value to any foreign official, candidate for foreign office, foreign political party or party official to influence any act or decision of such persons or entities in their official capacity.

Additional information concerning the FCPA can be found at the following web address:

<http://www.usdoj.gov/criminal/fraud/docs/dogdocb.html>. Buyer hereby acknowledges that Buyer is familiar with the FCPA and understands its provisions. If requested by Seller, Buyer will from time to time execute Certificates of Compliance with the FCPA. If requested by Seller, Buyer shall have its subcontractors, consultants, agents and representatives, as applicable, execute an FCPA compliance statement containing substantially the same provisions as set forth in this Section, and shall promptly provide written evidence thereof to Seller. Buyer's failure to comply in all respects with the requirements of this Section and the provisions of the FCPA shall constitute a material breach of the Instrument of Sale and these Terms and Conditions entitling Seller to immediately suspend or terminate same.; provided, however, that for purposes of the foregoing, Seller's "good faith" belief that Buyer has failed to comply in all respects with the requirements of this Section and the provisions of the FCPA shall be sufficient cause for Seller to suspend or terminate the Instrument of Sale and these Terms and Conditions.

XXV. Intellectual Property

Any trademarks, drawings, designs and all other intellectual property rights of Seller embodied in, displayed on, or otherwise provided in connection with, the Goods or the Instrument of Sale, shall remain the sole property of Seller. Without Seller's express prior written permission, no reproduction, use or communication to third parties of any such intellectual property are permitted.

XXVI. No Waiver

Forbearance or failure of Seller to enforce any of the terms and conditions stated herein, or to exercise any right accruing from default of Buyer, shall not affect or impair Seller's rights arising from such defaults; nor shall forbearance or failure be deemed a waiver of Seller's rights in case of any subsequent default of Buyer.

XXVII. Severability

If any provision of these Terms and Conditions is unenforceable or invalid, these Terms and Conditions shall be interpreted and enforced to the greatest extent possible as if the unenforceable provision or portion had never been a part hereof.

XXVIII. Assignment

These Terms and Conditions shall be binding upon and shall inure to the benefit of the successors and assigns of Buyer and Seller provided, however, that Buyer may not assign or transfer the Instrument of Sale or these Terms and Conditions, in whole or in part, except upon the prior written consent of Seller.

XXIX. Governing Law

- a) The Instrument of Sale and these Terms and Conditions shall be construed in accordance with the laws of the State of Delaware, without regard to any choice or conflict of laws principles.
- b) If Buyer and Seller are registered in the same country, any dispute arising in connection with the Instrument of Sale and these Terms and Conditions which cannot be settled amicably shall be submitted for resolution to the jurisdiction of the state and federal courts sitting in the State of Delaware.
- c) If Buyer and Seller are registered in different countries, any dispute arising in connection with the the Instrument of Sale and these Terms and Conditions which cannot be settled amicably shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance therewith. Place of arbitration shall be Customer's place of registration. The language of the proceedings and of the award shall be English. The decision of the arbitrator is final and binding upon both Parties, and neither Party may appeal for revision.

XXX. Entire Contract

BUYER AND SELLER HEREBY AGREE THAT THESE TERMS AND CONDITIONS ALONG WITH THE INSTRUMENT OF SALE SHALL CONSTITUTE THE ENTIRE AGREEMENT BETWEEN BUYER AND SELLER AND NO PRIOR OR CONTEMPORANEOUS ORAL OR WRITTEN STATEMENT, CORRESPONDENCE, SAMPLE OR OTHER TERMS, QUOTATIONS OR UNDERSTANDINGS SHALL MODIFY, ALTER OR IN ANY WAY AFFECT THE TERMS THEREOF.

As of: February 2016