



PURCHASE ORDER TERMS AND CONDITIONS

As used herein, "Seller" includes Seller, its subsidiaries and affiliates; "Henry" includes Henry Company LLC and its subsidiaries and affiliates. Seller and Henry hereby agree as follows:

1. SERVICES AND DELIVERABLES.

Seller agrees to perform the services ("Services") and/or provide the goods or Service deliverables (collectively referred to as "Goods"), described in any supply agreement, purchase order, scope of work, change order, or any other agreement or document which expressly references and/or incorporates the terms hereof (each an "Incorporating Agreement") in accordance with such Incorporating Agreement and with these terms and conditions ("Terms and Conditions"). Upon acceptance of an Incorporating Agreement shipment of Goods or commencement of a Service, Seller shall be bound by the provisions of the Incorporating Agreement and, to the extent the provisions hereof do not conflict with any provisions of the Incorporating Agreement, the provisions of these Terms and Conditions, whether Seller acknowledges or otherwise signs such Incorporating Agreement or these Terms and Conditions. The Incorporating Agreement, together with these Terms and Conditions shall be collectively referred to herein as the "Agreement".

These Terms and Conditions may not be added to, modified, superseded or otherwise altered, except in accordance with Section 18.4 hereof. Any terms or conditions contained in any acknowledgment, invoice or other communication of Seller, whether inconsistent or not with the terms and conditions herein, are hereby rejected. To the extent that any Agreement might be treated as an acceptance of Seller's prior offer, such acceptance is expressly made on condition of assent by Seller to the terms hereof and shipment of the Goods or beginning performance of any Services by Seller shall constitute such assent. Henry hereby reserves the right to reschedule any delivery or cancel any Incorporating Agreement issued at any time prior to shipment of the Goods or prior to commencement of any Services. Henry shall not be subject to any charges or other fees as a result of such cancellation.

2. DELIVERY.

Seller acknowledges that all terms as to the quantity, quality, specifications, and time of delivery are material elements of any Agreement and must be strictly complied with. Time is of the essence. Delivery of Goods shall be made pursuant to the schedule, via the carrier and to the place specified on the face of the applicable Incorporating Agreement. Henry reserves the right to return, shipping charges collect, all Goods received in advance of the delivery schedule. If no delivery schedule is specified, the order shall be filled promptly. If no method of shipment is specified in the purchase order, Seller shall use the least expensive carrier. In the event Seller fails to deliver the Goods within the time specified, or if any of the Goods are defective or not in conformity with the purchase order, Henry may, at its option, decline to accept the Goods and terminate the Agreement or may demand its allocable fair share of Seller's available Goods and terminate the balance of the Agreement, or, in the case of defective or non-conforming goods, to return all or any portion of the Goods, at Seller's sole cost and expense, all without waiver of any claim Henry may have for Seller's breach including the right to damages and to cancel any other purchase order between Henry and Seller. Seller shall package all items in suitable containers to permit safe transportation and handling.

3. INSPECTION, RISK OF LOSS AND DESTRUCTION OF GOODS.

Goods shall be subject to inspection and acceptance or rejection by Henry after delivery, notwithstanding prior payment. Henry shall have a reasonable time after receipt of Goods or Service deliverables to inspect them for conformity hereto. Henry may charge Seller the expense of unpacking, examining, repacking, storing and reshipping any Goods found defective or not in conformity with any Agreement. In addition to any other rights under the Agreement including, without limitation, any right to damages, Henry may require Seller to replace any item which Henry is entitled to reject hereunder or grant a full refund or credit to Henry in lieu thereof. Seller assumes all risk of loss until receipt by Henry. Title to the Goods shall pass to Henry upon receipt and approval by it of the Goods at the designated destination. If the Goods ordered are destroyed or damaged prior to title passing to Henry, Henry may at its option cancel the Agreement or require delivery of substitute Goods of equal quantity and quality. Such delivery will be made as soon as commercially

practicable.

4. PRICING; PAYMENT.

As full consideration for the performance of the Services, delivery of the Goods and the assignment of rights to Henry as provided herein, Henry shall pay Seller (i) the amount agreed upon and specified in the applicable Incorporating Agreement, or (ii) Seller's quoted price on date of shipment (for Goods), or the date Services were started (for Services), whichever is lower. Payment terms are **2%15 Net 60 days** from the date of invoice. Unless otherwise specified in the Incorporating Agreement, any taxes required by law to be included in the price, and other charges such as shipping costs, duties, customs, tariffs, imposts and government imposed surcharges shall be stated separately on Seller's invoice. Seller may not increase prices without at least sixty (60) days prior written notice and written consent of Henry. Payment is made when Henry's check is mailed or electronically processed. Payment shall not constitute acceptance. All personal property taxes assessable upon the Goods prior to receipt by Henry of Goods conforming to the Agreement shall be borne by Seller. Seller shall invoice Henry for all Goods delivered and all Services actually performed. Each invoice submitted by Seller must be provided to Henry within ninety (90) days of completion of the Services or delivery of Goods and must reference the applicable Incorporating Agreement, and Henry reserves the right to return all incorrect invoices. Henry will receive a 2% discount of the invoiced amount for all invoices that are submitted more than ninety (90) days after completion of the Services or delivery of the Goods. Unless otherwise specified on the face of an Incorporating Agreement, Henry shall pay the invoiced amount within sixty (60) days after receipt of a correct invoice. Seller will receive no royalty or other remuneration on the production or distribution of any products developed by Henry or Seller in connection with or based on the Goods or Services provided.

5. CANCELLATION.

Except as may be otherwise provided in any Incorporating Agreement, Henry may, at any time, for any reason, whether or not Seller is in default, cancel an Agreement in whole or in part by written notice to Seller. Upon receipt of such cancellation notice, Seller will immediately stop work on the date, and to the extent specified in such notice, cancel all orders and subcontracts that relate to the cancelled order. Henry will pay Seller for all finished Goods accepted by Henry, as well as for the verified, documented costs to Seller of work in process and material allocated to the cancelled order that is not in

excess of any prior authorization by Henry. This provision shall not apply to items that are otherwise saleable, standard items. Payment made under this paragraph shall constitute Henry's only liability to Seller for cancellation hereunder. The provisions of this paragraph will not apply to any cancellation by Henry based upon Seller's default, or for any other cause recognized by law or specified in any Incorporating Agreement.

6. REPRESENTATIONS AND WARRANTIES.

6.1. Services. Seller represents and warrants that all Services shall be completed in a professional, workmanlike manner, with the degree of skill and care that is required by current, good and sound professional procedures. Further, Seller represents and warrants that the Services shall be completed in accordance with applicable specifications and shall be correct and appropriate for the purposes contemplated in the Agreement. Seller represents and warrants that the performance of Services under the Agreement will not conflict with, or be prohibited in any way by, any other agreement or statutory restriction to which Seller is bound.

6.2. Goods. Seller warrants that all Goods provided will be new and will not be used or refurbished. Seller warrants that all Goods delivered shall (i) comply with all specifications, descriptions or samples furnished or specified by Henry; (ii) be of merchantable quality; (iii) be free from defects, including latent defects; (iv) be of good material and workmanship; (v) in the case of Goods not designed by Henry, be fit and sufficient for the usual and ordinary purposes for which they are intended; (vi) comply with all applicable federal and state laws, rules, regulations, orders and ordinances for a period of fifteen (15) months from the date of delivery to Henry or for the period provided in Seller's standard warranty covering the Goods, whichever is longer. Seller hereby agrees that it will make spare parts available to Henry for a period of five (5) years from the date of shipment at Seller's then current price, less applicable discounts. Seller also warrants that on delivery Henry will receive good title to the Goods, free and clear of all liens and encumbrances, and all such Goods will be free from any actual or claimed patent, copyright or trademark infringement. Additionally, Goods purchased shall be subject to all written and oral express warranties made by Seller's agents, and to all warranties implied by applicable law. All warranties shall be construed as conditions as well as warranties and shall not be exclusive and shall survive payment and acceptance by Henry. Seller shall furnish to Henry Seller's

standard warranty and service guaranty applicable to the Goods. All warranties and Service Guaranties shall run both to Henry and to its customers.

If Henry identifies a warranty problem with the Goods during the warranty period, Henry will promptly notify Seller of such problems and will return the Goods (if practicable) to Seller at Seller's expense. Within five (5) business days of receipt of the returned Goods, Seller shall, at Henry's option, either repair or replace such Goods, or credit Henry's account for the same. Replacement and repaired Goods shall be warranted for the remainder of the warranty period or six (6) months, whichever is longer. In the event that return of the Goods is not practicable because the Goods have been incorporated into other products or otherwise used in the course of Henry's business, Henry's remedies shall include the indemnification provisions set forth in paragraph 10 below.

6.3. Compliance with Laws. Seller shall comply fully with all applicable international, federal, state and local laws, regulations, rules and orders in the performance of the Agreement including, but not limited to, all applicable employment, tax, export control and environmental laws. Seller further represents that neither it nor any of its subcontractors will utilize child, slave, prisoner or any other form of forced or involuntary labor, or engage in abusive employment or corrupt business practices, in the supply of goods or provision of services under any Agreement.

7. INDEPENDENT CONTRACTOR.

Seller is an independent contractor for all purposes, without express or implied authority to bind Henry by contract or otherwise. Neither Seller nor its employees, agents or subcontractors are agents or employees of Henry. Seller shall be responsible for all costs and expenses incident to performing its obligations under the Agreement and shall provide Seller's own supplies and equipment.

8. SELLER RESPONSIBLE FOR TAXES AND RECORDS.

Seller shall be solely responsible for filing the appropriate federal, state and local tax forms and paying all such taxes or fees, including estimated taxes and employment taxes, due with respect to Seller's receipt of payment under the Agreement. Seller further agrees to provide Henry with reasonable assistance in the event of a government audit. Henry shall have no responsibility to pay or withhold from any payment to Seller under the

Agreement, any federal, state or local taxes or fees.

9. INSURANCE.

Seller shall be solely responsible for maintaining adequate health, auto, workers' compensation, unemployment compensation, disability, general liability, including product liability, and other insurance, as is required by law or as is the common practice in Seller's trade or business, whichever affords greater coverage, and in amounts sufficient to cover all claims under any purchase order. Upon request, Seller shall provide Henry with certificates of insurance or evidence of coverage before commencing performance under the Agreement.

10. INDEMNITY.

Seller shall indemnify, hold harmless, and defend Henry, its officers, directors, customers, agents and employees, from and against all actions or claims (regardless of the merits thereof), liabilities, damages, losses and expenses, including attorneys' fees and cost of suit arising out of or in any way connected with Goods or Services provided under the Agreement, including without limitation: (a) any death or injury to any person, or damage to or destruction of any property; (b) any product recalls; (c) failure to comply with the provisions of the Agreement or the act or omission of any of Seller, Seller's vendor, subcontractor or anyone acting directly or indirectly under Seller's direction or control or on Seller's behalf; and (d) any misrepresentation or breach of any representation, agreement or covenant by Seller made or contained in the Agreement. Seller shall not settle any such suit or claim without Henry's prior written approval. Seller agrees to pay or reimburse all costs that may be incurred by Henry in enforcing this indemnity, including attorneys' fees. Henry's damages will include without limitation, the cost to replace the Goods covered by purchase order and any special, coincidental, indirect, exemplary or consequential losses, damages or expenses, including without limitation, those resulting from loss of time, loss of savings, loss of profits or loss of goodwill, and any other claims made by Henry's customers, whether foreseeable or unforeseeable.

If Henry's use, or use by its distributors, subcontractors or customers, of any Goods or Services purchased from Seller is enjoined, threatened by injunction, or made the subject of any legal proceeding, Seller shall, at its sole cost and expense, either (a) substitute fully equivalent non-infringing Goods or Services; (b) modify the Goods or Services so that they no longer infringe but remain full equivalent in functionality;

(c) obtain for Henry, its distributors, subcontractors or customers the right to continue using the Goods or Services; or (d) if none of the foregoing is possible, refund all amounts paid for the infringing Goods or Services.

11. CONFIDENTIALITY.

Any Henry Confidential Information (as defined below) acquired by Seller in connection with its performance under the Agreement shall be kept confidential by Seller during and following termination or expiration of the Agreement. "Henry Confidential Information" includes, but is not limited to, all information, whether written or oral, in any form, including without limitation, information relating to the research, development, products, methods or manufacture, trade secrets, business plans, customers, vendors, finances, personnel data. Work Product (as defined herein) and other material or information considered proprietary by Henry relating to the current or anticipated business or affairs of Henry which is disclosed directly or indirectly to Seller. In addition, Henry Confidential Information means any third party's proprietary or confidential information disclosed to Seller in the course of providing Services or Goods to Henry. Henry Confidential Information does not include any information (i) which Seller lawfully knew without restriction on disclosure before Henry disclosed it to Seller, (ii) which is now or becomes publicly known through no wrongful act or failure to act of Seller, (iii) which Seller developed independently without use of the Henry Confidential Information, as evidenced by appropriate documentation, or (iv) which is hereafter lawfully furnished to Seller by a third party as a matter of right and without restriction on disclosure. In addition, Seller may disclose Confidential Information which is required to be disclosed pursuant to a requirement of a government agency or law so long as Seller provides prompt notice to Henry of such requirement prior to disclosure.

Seller agrees not to copy, alter, or directly or indirectly disclose any Henry Confidential Information. Additionally, Seller agrees to limit its internal distribution of Henry Confidential Information to Seller's employees, agents and representatives who have a need to know, and to take steps to ensure that the dissemination is so limited, including the execution by Seller's employees, agents and representatives of nondisclosure agreements with provisions substantially similar to those set forth herein. In no event will Seller use less than the degree of care and means that it uses to protect its own information of like kind, but in any event not less than reasonable care to prevent the unauthorized use of Henry Confidential

Information.

Seller further agrees not to use the Henry Confidential Information except in the course of performing hereunder and will not use such Henry Confidential Information for its own benefit or for the benefit of any third party. The mingling of Henry Confidential Information with information of Seller shall not affect the confidential nature or ownership of the same. Seller agrees not to design or manufacture any products which incorporate Henry Confidential Information. All Henry Confidential Information is and shall remain the property of Henry. Upon Henry's written request or the termination of the Agreement, Seller shall return, transfer or assign to Henry all Henry Confidential Information, including all Work Product, as defined herein, and all copies thereof.

12. OWNERSHIP OF WORK PRODUCT.

For purposes of the Agreement, "Work Product" shall include, without limitation, all designs, discoveries, creations, works, devices, masks, models, work in progress, Service deliverables, inventions, products, computer programs, procedures, improvements, developments, drawings, notes, documents, business processes, information and materials made, conceived or developed by Seller alone or with others which result from or relate to the Services performed hereunder. Standard Goods manufactured by Seller and sold to Henry without having been designed, customized or modified for Henry do not constitute Work Product. All Work Product shall at all times be and remain the sole and exclusive property of Henry. Seller hereby agrees to irrevocably assign and transfer to Henry and does hereby assign and transfer to Henry all of its worldwide right, title and interest in and to the Work Product including all associated intellectual property rights. Henry will have the sole right to determine the treatment of any Work Product, including the right to keep it as trade secret, execute and file patent registrations on it, to use and disclose it without prior patent application, to file registrations for copyright or trademark in its own name or to follow any other procedure that Henry deems appropriate. Seller agrees: (a) to disclose promptly in writing to Henry all Work Product in its possession; (b) to assist Henry in every reasonable way, at Henry's expense, to secure, perfect, register, apply for, maintain, and defend for Henry's benefit all copyrights, patent rights, mask work rights, trade secret rights, and all other proprietary rights or statutory protections in and to the Work Product in Henry's name as it deems appropriate; and (c) to otherwise treat all Work Product as Henry Confidential Information as described

above. These obligations to disclose, assist, execute and keep confidential survive the expiration or termination of the Agreement. All tools and equipment supplied by Henry to Seller shall remain the sole property of Henry.

Seller will ensure that Seller's employees, agents and representatives appropriately waive any and all claims and assign to Henry any and all rights or any interests in any Work Product or original works created in connection with the Agreement. Seller irrevocably agrees not to assert against Henry or its direct or indirect customers, assignees or licensees any claim of any intellectual property rights of Seller affecting the Work Product. Henry will not have rights to any works conceived or reduced to practice by Seller which were developed entirely on Seller's own time without using equipment, supplies, facilities or trade secret or Henry Confidential Information, unless (i) such works relate to Henry's business, or Henry's actual or demonstrably anticipated research or development, or (ii) such works result from any Services performed by Seller for Henry.

13. NONINTERFERENCE WITH BUSINESS.

During and for a period of two years immediately after the termination or expiration of the Agreement, Seller agrees not to unlawfully interfere with the business of Henry in any manner, and further agrees not to solicit or induce any employee or independent contractor to terminate or breach an employment, contractual or other relationship with Henry.

14. TERMINATION; REMEDIES.

Henry may terminate the Agreement, and/or any Service(s), for any reason upon thirty (30) days' written notice to Seller. Unless termination by Henry is based on Seller's failure to perform or other breach of the Agreement, filed petition in bankruptcy, insolvency, or dissolution (or equivalent thereof), or other legal cause, such termination resulting in Henry owing nothing to Seller, Henry shall pay Seller for the portion of the Services satisfactorily performed and those conforming Goods delivered to Henry through the date of termination, less appropriate offsets, including any additional costs to be incurred by Henry in completing the Services. Seller shall cease to perform Services and/or provide Goods under the Agreement on the date of termination specified in such notice.

Seller may terminate the Agreement upon written notice to Henry if Henry fails to pay Seller within sixty (60) days after Seller notifies Henry in writing that

payment is past due.

Upon the expiration or termination of the Agreement for any reason: (a) each party will be released from all obligations to the other arising after the date of expiration or termination, except for those which by their terms survive such termination or expiration; and (b) Seller will promptly notify Henry of all Henry Confidential Information or any Work Product in Seller's possession and, at the expense of Seller and in accordance with Henry's instructions, will promptly deliver to Henry all such Henry Confidential Information and/or Work Product.

The rights and remedies of Henry under the Agreement are cumulative and not exclusive of any rights or remedies to which Henry is entitled by law. The exercise by Henry of any singular right or remedy will not preclude Henry from exercising any other right or remedy under the Agreement or to which Henry is otherwise entitled by law.

Seller acknowledges and agrees that the obligations and promises of Seller under the Agreement are of a unique, intellectual nature giving them particular value. Seller's breach of any of the promises contained in the Agreement will result in irreparable and continuing damage to Henry for which there will be no adequate remedy at law and, in the event of such breach, Henry will be entitled to seek injunctive relief, or a decree of specific performance.

15. FORCE MAJEURE.

Henry shall not be liable for any failure to perform including failure to (i) accept performance of Services or, (ii) take delivery of the Goods caused by circumstances beyond its control which make such performance commercially impractical including, but not limited to, acts of God, fire, flood, acts of war, government action, accident, labor difficulties or shortage, inability to obtain materials, equipment or transportation. In the event Henry is so excused, either party may terminate the Agreement and Henry shall at its expense and risk, return any Goods received to the place of shipment.

16. LIMITATION OF LIABILITY.

IN NO EVENT SHALL HENRY BE LIABLE TO SELLER OR SELLER'S EMPLOYEES, AGENTS AND REPRESENTATIVES, OR ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT,

SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF, OR IN CONNECTION WITH, THE INCORPORATING AGREEMENT OR THESE TERMS AND CONDITIONS, WHETHER OR NOT HENRY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

17. NOTICES.

All notices and other communications hereunder shall be in writing, and shall be addressed to Seller or to an authorized Henry representative, and shall be considered given when (a) delivered personally, (b) sent by confirmed facsimile or electronic email with confirmed response, (c) sent by commercial overnight courier, or (d) three (3) days after having been sent, postage prepaid, by first class or certified mail.

18. GENERAL.

18.1. Assignment; Waiver. Seller may not assign the Agreement or assign, delegate or subcontract any of its rights or obligations under the Agreement without the prior written consent of Henry. Any assignment or transfer without such written consent shall be null and void. Upon any valid assignment, the Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of Henry without restriction. A waiver of any default of any term or condition of the Agreement shall not be deemed to be a continuing waiver or a waiver of any other default or any other term or condition.

18.2. Severability. If any provision of the Agreement shall be deemed to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

18.3. Governing Law. The Agreement shall be construed in accordance with, and disputes shall be governed by the laws of the State of California, excluding its conflict of law rules. The Courts of Los Angeles County, California shall have jurisdiction and venue over all controversies arising out of, or relating to, the Agreement. The applicability of the UN Convention of Contracts for the International Sale of Goods is hereby expressly waived by the parties and it shall not apply to the terms and conditions of the Agreement.

18.4. Entire Agreement; Modification. These Terms and Conditions, together with any Incorporating Agreement (and any other document,

agreement or instrument as may be executed in connection with any Incorporating Agreement), are the complete, final and exclusive statement of the terms of the agreement between the parties regarding the subject matter hereof and supersedes any and all other prior and contemporaneous negotiations and agreements, whether oral or written, between them relating to the subject matter hereof. Henry hereby expressly reserves the right at any time and from time to time to revise, amend, modify, alter or supplement these Terms and Conditions by publishing such revision, amendment, modification, alteration or supplement on its website. In the event of a conflict between the Incorporating Agreement and these Terms and Conditions, the terms of the Incorporating Agreement shall prevail over the conflicting term of these Terms and Conditions. The provisions of these Terms and Conditions shall prevail notwithstanding any variance with the terms and conditions of any acknowledgment or other document submitted by Seller.

18.5. No Third Party Beneficiaries. The parties do not intend to confer any benefits on any person, firm, corporation or other entity, other than Seller or Henry, as a result of these Terms and Conditions or any Incorporating Agreement.

18.6. Legal Expenses. The prevailing party in any legal action or proceeding arising out of the Agreement shall be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses, including court costs and reasonable attorneys' fees.

