



TERMS AND CONDITIONS

Unless otherwise specifically agreed in writing by Seller, these Terms and Conditions (“**Terms and Conditions**”) will apply to any and all Quotations, Orders, Order Confirmations, and any sale or delivery of Products or Services (or both) by Lawrence Semiconductor Research Laboratory, Inc. (“**Seller**”) to any customer (“**Buyer**”). Seller does not accept, expressly or impliedly, any additional or different terms or conditions that Buyer presents (whether included in the Order or otherwise), except where expressly and unambiguously agreed upon by Seller in writing. By ordering, receiving, accepting, or using Products or Services or otherwise proceeding with any transaction after receipt of these Terms and Conditions or after otherwise being notified that such transactions are subject to these Terms and Conditions, Buyer agrees to these Terms and Conditions.

1. **Definitions.** In addition to the capitalized terms defined elsewhere in these Terms and Conditions, the following capitalized terms shall have the following definitions:

1.1 “**Buyer-Provided Materials**” means any materials, including, without limitation, substrates, wafers, or other materials supplied by Buyer for use by Seller to create Products or perform Services.

1.2 “**Confidential Information**” means all non-public, confidential, and proprietary information relating to Seller’s business, whether in oral, written, electronic, physical/sample, or other form, disclosed to, or learned by, Buyer, whether before or after engagement of Seller for procurement of Products or Services. Confidential Information shall also include (i) all suggestions, comments, ideas, or other similar feedback related to or arising from Seller’s Confidential Information, or any part or aspect thereof, which is given by Buyer to Seller; and (ii) any other information in oral, written, graphic, or electronic form which, given the circumstances surrounding such disclosure to or learning by Buyer, would be considered confidential.

1.3 “**Delivery Date**” means the date on which Seller makes the Products available for collection.

1.4 “**Intellectual Property Rights**” means any and all (i) copyrights, mask work rights, trademarks, and patents; (ii) rights relating to innovations, know-how, trade secrets, and confidential, technical, and non-technical information; (iii) moral rights, author’s rights, and rights of publicity; and (iv) other industrial, proprietary, and intellectual property related rights anywhere in the world, and all applications for, renewals and extensions of the foregoing now or hereafter filed, regardless of whether or not such rights have been registered with the appropriate authorities in such jurisdictions in accordance with the relevant legislation.

1.5 “**LSRL Dock**” means the dock and loading area of Seller, where the Products are made available for collection.

1.6 “**Order**” means the purchase order issued by Buyer to Seller, including any written amendments thereto which have been accepted in writing by Seller, for the delivery of the Products or the provision of Services by Seller. Each Order must include the corresponding Quotation reference number to be accepted by Seller.



1.7 **“Order Confirmation”** means a written confirmation from Seller that integrates, incorporates, accepts, and adopts all, but not less than all, of the terms in the Order, and for purposes of these Terms and Conditions shall be deemed to include those terms, rendering them binding and forming the Contract.

1.8 **“Price”** means the price of the Products or Services as set out in the Order Confirmation.

1.9 **“Product”** means any substrate, wafer, or material that Seller agrees to deliver to Buyer as described in the Order Confirmation.

1.10 **“Products or Services”** means both (i) Products or Services individually, and (ii) Products and Services collectively, as applicable.

1.11 **“Quotation”** means Seller’s quotation issued by Seller, including any written amendments thereto, for the Specifications, the Products and the Services.

1.12 **“Restricted Person”** means any person listed on, or that is directly or indirectly controlled by, or acting on behalf of, one or more restricted persons on any list (including any future amendments to such list) published by a Sanctions Agency.

1.13 **“Services”** means the services related to any Product as set out in the Order Confirmation.

1.14 **“Specifications”** means the quantities, qualities, descriptions, and specifications of substrates or wafers and epitaxy (or EPI) as set out in the Quotation.

1.15 **“Trade Control Laws”** means any applicable laws, regulations, administrative or regulatory decisions, or guidelines (including any future amendments to these provisions), or any other laws, regulations, administrative or regulatory decisions, or guidelines adopted, maintained, or enforced by a Sanctions Agency on or after the date of the Order that sanction, prohibit, or restrict certain activities including, but not limited to: (i) import, export, re-export, transfer, or trans-shipment of goods, services, technology, or software; or (ii) financing of, investment in, or direct or indirect transactions or dealings with certain countries, territories, regions, governments, projects, or persons or entities.

2. Quotations and Orders.

2.1 A potential Buyer may request a Quotation from Seller for Products and Services based on Specifications, and Seller shall endeavor to provide a Quotation to such potential Buyer. Unless otherwise set forth in the Quotation, all Quotations received by each potential Buyer shall expire sixty (60) days from the issuance date on such Quotations. Seller reserves the right upon written notice to such potential Buyer to correct any reasonable typographical or clerical errors made in any Quotation before or after receipt of the applicable Order for such potential Buyer (whereby, if exercised by Seller, Seller shall provide such potential Buyer an opportunity to accept or reject Seller’s corrected Quotation).



2.2 To order Products or Services, Buyer shall issue to Seller a signed Order by email to: LSRL_PO@lsrl.com. All Orders are subject to the written acceptance of Seller through issuance of an Order Confirmation, which acceptance shall be at Seller's sole discretion. No Order submitted by Buyer which constitutes an offer shall be accepted, or deemed to be accepted, by Seller, unless confirmed in writing via an Order Confirmation sent by Seller within fourteen (14) days after submittal. Each Order must contain the Buyer's principal contact information, billing information, and any special instructions.

2.3 Upon issuance of any Order Confirmation by Seller, a binding contract between Seller and Buyer ("**Contract**") shall be formed, which Contract shall consist of the Quotation, Order, Order Confirmation and these Terms and Conditions. Upon issuance of the Order confirmation, Buyer shall not be permitted to cancel any Order without the prior written approval of Seller.

2.4 Buyer shall be responsible to Seller for ensuring the accuracy of any Order submitted, and for giving the Supplier all necessary information and sufficient time to perform the Contract. Seller shall have the right to delay manufacture and delivery of the Products or Services upon any failure by Buyer to comply with this Contract.

2.5 Seller does not agree to any proposed amendment, alteration, or addition of the Contract by Buyer. Amendments to the binding Contract are only valid if they are in writing and duly signed by a duly authorized representative of Seller, and Buyer acknowledges that such amendments may lead to a modification of the estimated delivery date or Price. Any other statement or writing of Buyer shall not amend, add to, or otherwise affect the Contract. Any general conditions of Buyer that could apply to transactions with Seller are hereby expressly rejected and shall apply only if and insofar as these have been expressly accepted in writing by Seller. In case of conflict between these Terms and Conditions and the Quotation, or Order Confirmation (as the case may be), the order of precedent of the document that prevails shall be: (a) the Order Confirmation, (b) the Quotation, and (c) these Terms and Conditions.

3. Specifications and Buyer-Provided Materials.

3.1 The Specifications shall be those set forth in the Quotation and accepted by Seller in the Order Confirmation, and Buyer agrees that the Specifications are subject to the variances set forth therein. All Specifications shall be deemed Seller Confidential Information subject to these Terms and Conditions and must not be made available to third parties without the prior written consent of Seller.

3.2 Buyer acknowledges that it is solely responsible for timely shipping to Seller sufficient quantities and types of all Buyer-Provided Materials to be used by Seller to create Products and perform Services as set forth in the Quotation. All Buyer-Provided Materials shall be shipped to the Seller's address as set forth in the Quotation; if none, then all Buyer-Provided Materials shall be shipped to the following address: Lawrence Semiconductor Research Lab, 2300 W. Huntington Dr., Tempe, AZ 85282, ATTN: Quotation No. ###. If selected by Buyer in the Order and agreed by Seller in the Order Confirmation, Seller can arrange for freight of the Buyer-Provided Materials using the Buyer's designated shipping account or via prepay. Buyer shall be solely responsible for ensuring that all shipping account or prepay details are true and correct and



shall be liable for paying all associated shipping account or prepay charges. If any Buyer-Provided Materials are age or storage sensitive, Buyer shall provide recommended storage conditions (i.e., temperature, humidity, etc.), if required, and shelf-life requirements or expiration dates. Buyer's failure to provide such conditions or requirements shall relieve Seller from any liability associated with incorrect storage of Buyer-Provided Materials.

3.3 Seller shall not be responsible for any delay in manufacturing or delivery of finished Products or Services resulting from Buyer's failure to timely deliver sufficient quantities and types of Buyer-Provided Materials that comply with the requirements herein. Should Buyer fail to provide timely and adequate quantities and types of Buyer-Provided Materials that comply with the requirements contained herein, Buyer agrees to pay Seller an idle time fee for missed production and downtime costs at a rate of \$5,500 per eight (24) hour day (prorated to an hourly amount) (the "**Downtime Costs**"), unless otherwise set forth in the Quotation. Seller has no responsibility to return or liability for any unused or scrap Buyer-Provided Materials.

3.4 Buyer will be responsible for identifying all suppliers of Buyer-Provided Materials and supplying all documentation requested by Seller to facilitate Seller's compliance with applicable export/import regulatory or certification requirements, including required by Trade Control Laws, with respect to such Buyer-Provided Materials ("**Legal Requirements**"). Without limiting the foregoing, Buyer shall work with its respective suppliers to provide Seller with necessary documentation and require that each shipment of Buyer-Provided Materials has the necessary documentation to ensure they comply with the Specifications. Seller maintains the right to reject any Buyer-Provided Materials which do not meet the Specifications or the Legal Requirements (the "**Non-Conforming Materials**"). If Seller receives Non-Conforming Materials and Buyer does not timely replace such Non-Conforming Materials with sufficient conforming Buyer-Provided Materials, then Buyer will be responsible for Downtime Costs. Should Buyer not pick up or otherwise respond to Seller regarding the disposition of any Non-Conforming Materials within thirty (30) days of notice/rejection by Seller, then Seller may, in its sole discretion, return such Non-Conforming Materials to Buyer or dispose of such Buyer-Provided Materials at the cost and expense of Buyer.

3.5 Buyer shall notify Seller of any and all known nonconforming Buyer-Provided Materials that are to be shipped to Seller for Seller's use in the creation of Products or performance of Services. Waiver requests must be submitted to and approved in writing by Seller prior to shipment for any Buyer-Provided Materials that do not meet Seller specifications or any Contract requirements.

3.6 Buyer hereby acknowledges that Seller is not required to compensate Buyer for any misprocessed Buyer-Provided Materials, nor is Seller required to compensate Buyer for any associated value that Buyer may claim regarding the same.

4. Price

4.1 The final Price shall be listed in the Order Confirmation.

4.2 Seller reserves the right, by giving notice to Buyer at any time before delivery, to increase the Price to reflect an increase in the costs to Seller which is due to external factors beyond



the control of Seller, any change in delivery dates, quantities, or Specifications requested by Buyer, or any delay caused by any instructions of Buyer or failure of Buyer to give Seller adequate information or instructions. Buyer agrees to either (i) send enough Buyer-Provided Materials to meet the minimum quantity amount, or (ii) agrees to pay for the equivalent minimum order amount in the event that Buyer sends a quantity of Buyer-Provided Materials that is less than Seller's minimum size order.

4.3 Unless Seller expressly states otherwise, all fees and prices quoted or invoiced exclude sales taxes, withholding taxes, customs and import duties, and other taxes and charges, insurance, bank charges, and costs related to transportation, if any. Any such charges and costs shall be paid or reimbursed by Buyer. If any withholding taxes apply, Buyer shall gross up the invoiced amount to ensure that, after such withholding, Seller receives the full amount invoiced.

5. Invoicing

5.1 Seller will transmit invoices electronically. Buyer shall state in the Order either the email address for sending an electronic copy of the invoice or instructions for uploading an electronic copy of the invoice. The Order shall include Buyer's accounts payable point of contact with respect to the Contract between Buyer and Seller.

6. Payment

6.1 If the Products and Services have been accepted by Buyer, Buyer shall, unless otherwise set forth in the Order Confirmation, pay the invoiced amount within fifteen (15) days of receipt of the invoice. Payment must be made in full, with all bank charges and fees borne by Buyer. Payment shall serve as compensation for all labor, materials, and equipment required for Seller to complete the Contract as quoted and is not conditional to Buyer's acceptance of Products.

6.2 Without prejudice to any other right or remedy available to Seller, if Seller does not receive all amounts (with no deduction of any tax, duty, and bank charges and fees to Seller) when due: (a) any due and unpaid portion of the invoiced amount shall bear interest in the amount of up to twelve percent (12%) per year or the maximum rate allowed by law, whichever is less, until full payment is made; and Seller may at its discretion immediately terminate the Contract or suspend deliveries of Products and performance of any Services.

7. Products

7.1 Delivery of Products shall be conditional upon timely and proper performance of all duties of Buyer under the Contract.

7.2 Delivery dates are estimates only and non-binding upon Seller. Seller shall be authorized to make partial or early deliveries without any compensation to Buyer for any additional costs as a result thereof.

7.3 Seller will notify Buyer when Products are ready for collection. All Products shall be delivered to Buyer Ex-Works (Incoterms 2020), at the LSRL Dock (the "Trade Term"), unless otherwise set forth in the Order Confirmation. Risk of loss and title to Products passes to Buyer in accordance with the Trade Term. Seller's recognition of revenue occurs concurrent with the



transfer of title. Unless otherwise set forth in Order Confirmation, Buyer is solely responsible for all shipping costs, shipping surcharges, insurance-related costs, taxes, tariffs, and duties associated with any Order.

7.4 Buyer shall be responsible for the cost of any special packaging which it may request or which may be necessitated by delivery by any means other than Seller's normal means of delivery. Buyer shall be solely responsible for the disposal of all packaging in accordance with all regulations, whether statutory or otherwise, relating to protection of the environment, at its own cost.

7.5 If the Products are agreed to be delivered in installments, each delivery of Product shall constitute a separate contract and failure by Seller to deliver any one or more of the installments in accordance with these Terms and Conditions or any claim by Buyer in respect to any one or more installments shall not entitle Buyer to treat the Contract as a whole as repudiated.

7.6 If Buyer fails to accept delivery of the Products or fails to give Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond Buyer's reasonable control or by reason of Seller's fault), then Buyer shall accordingly be liable to pay the Price for the Products delivered as if the Products had been delivered, and without prejudice to any other right or remedy available to Seller, Seller may:

(a) store Products until actual delivery and charge Buyer for the reasonable costs (including insurance) of storage; or

(b) sell Products at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to Buyer for the excess over the price under the Contract provided the price has been paid in cash or cleared funds in full or charge the Customer for any shortfall below the price under the Contract.

7.7 Seller shall not be liable for all cost, loss, damages, claims, or liabilities incurred by Buyer due to non-delivery of Products by reason of any force majeure or by reason of Buyer's fault, in which case Seller may, at its sole option (as applicable):

(a) suspend deliveries of Products while such event or circumstance continues;

(b) apportion available stock to its customers as it decides; or

(c) terminate any Contract so affected with immediate effect by written notice to Buyer, and Seller shall not be liable for any loss or damage suffered by Buyer as a result thereof.

8. Performance of Services

8.1 Performance of Services shall be conditional upon timely and proper performance of all duties of Buyer. Any required dates or timelines surrounding the performance of Services shall be specified in the Order Confirmation.



8.2 Seller shall not be liable for cost, loss, damages, claims, or liabilities incurred by Buyer due to non-performance of Services by reason of any force majeure or by reason of Buyer's fault, in which case Seller may, at its sole option (as applicable):

(a) suspend performance of Services while such event or circumstance continues; or

(b) terminate any Contract so affected with immediate effect by written notice to Buyer, and Seller shall not be liable for any loss or damage suffered by Buyer as a result thereof.

9. Termination

9.1 On or at any time after the occurrence of any material breach of the Contract, Seller may, at its sole option:

(a) stop any Products in transit;

(b) suspend further deliveries of Products to Buyer or performance of Services;
or

(c) terminate any Contract so affected with immediate effect by written notice to Buyer, and Seller shall not be liable for any loss or damage suffered by Buyer as a result thereof.

9.2 A material breach of this Contract includes, but are not limited to, the following events:

(a) Buyer being in breach of any payment obligation under the Contract;

(b) Buyer passing a resolution for its winding up or a court of competent jurisdiction making an order for Buyer's winding up or dissolution;

(c) The making of an administration order in relation to Buyer or the appointment of a receiver over or an encumbrancer taking possession of or selling any of Buyer's assets;

(d) Buyer making an arrangement or composition with its creditors generally or applying to a court of competent jurisdiction for protection for its creditors; or

(e) Buyer breaches the Trade Control Laws or becomes a Restricted Person under these Terms and Conditions.

10. Warranty

10.1 Product Warranty

(a) Any warranty for Products by Seller shall be conditional upon timely and proper performance of all duties of Buyer and be limited in scope as set out in this Section 10.



(b) All experimental or R&D Products as identified in the Quotation are provided “AS IS” without any warranty, express or implied.

(c) If the Quotation provides that the Product comes with a warranty (each, a “**Warranted Product**”), then Seller warrants for the applicable warranty period that such Warranted Product will substantially conform to the Order Confirmation and the Specifications, and be free of material defects in materials and workmanship, subject to the following limitations set forth below. Within the applicable warranty period, Seller will, at its sole discretion, repair or replace part or all of a defective Warranted Product, subject to terms hereunder. Remedies provided in this section shall be the only, exclusive and sole remedy of Buyer against Seller for any warranty claim.

(d) Unless otherwise set forth in the Quotation, any warranty claim relating to Warranted Products must be made to Seller within [twelve (12) months] after the applicable Delivery Date, which period shall not be extended by any act of Buyer.

(e) To submit a warranty claim, Buyer must timely provide Seller with a written notice describing the alleged defect in reasonable detail, and access to the Warranted Products as well as information in sufficient detail to enable Seller to reproduce and analyze the alleged defect. A failure analysis will be conducted by Seller for the Warranted Products, and the failure analysis report will be provided upon Buyer’s request.

(f) The following items are specifically excluded from any warranty coverage: (a) Warranted Product that has been subjected to improper operation, abuse, misuse, mishandling, accident, neglect, or failure to follow the Seller’s instructions; (b) damage or loss due to defects in the Buyer-Provided Materials; (c) damages caused by installation of the Warranted Product, use of equipment and devices in proximity to said Warranted Products, or misuse of products not sold or manufactured by Seller but used in conjunction with the Warranted Products; (d) damage caused by normal wear and tear; (e) damage or loss as a result of, or during, shipping (unless it was agreed by the parties that the shipping will be the responsibility of Seller); or (f) acts of nature, accidents, or other causes beyond the control of Seller or other force majeure events, including but not limited to extreme weather conditions, fire, earthquakes, electrical or power failures, failure of energy or water supply, strike, rebellion, lockouts, war, terrorism, pandemic, etc.

10.2 Services Warranty

(a) In performing the Services, Seller warrants that it shall provide the Services (i) in a timely and workmanlike manner using reasonable care, skill, and diligence; (ii) using suitably trained, qualified, and skilled personnel; (iii) in accordance with the Order Confirmation; and (iv) in compliance with all applicable laws governing the provision and use of the Services.

10.3 Limitation of Warranties and Damages. EACH PARTY ACKNOWLEDGES AND AGREES THAT, EXCEPT AS SPECIFICALLY SET FORTH ABOVE, PRODUCTS AND SERVICES ARE PROVIDED “AS-IS” AND, OTHER THAN THE EXPRESS WARRANTIES AND REPRESENTATIONS MADE IN THIS SECTION 10, SELLER MAKES NO, AND HEREBY EXPRESSLY DISCLAIMS, ANY OTHER WARRANTIES OR REPRESENTATIONS AS TO PRODUCTS OR SERVICES, TO BUYER OR TO ANY USER



OR THIRD PARTY, AND DOES NOT MAKE ANY REPRESENTATION, WARRANTY OR COVENANT OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, OR ANY WARRANTIES ARISING BY OPERATION OF LAW, INCLUDING WITHOUT LIMITATION WARRANTIES OF TITLE, NON-INFRINGEMENT, SUITABILITY AND MERCHANTABILITY, DESIGN OR FITNESS FOR ANY SPECIFIC OR PARTICULAR PURPOSE WITH RESPECT TO THE PRODUCTS OR SERVICES. THIS DISCLAIMER INCLUDES ALL WARRANTIES THAT MIGHT OTHERWISE ARISE FROM ANY DESCRIPTION OR SAMPLE OF ANY OF THE PRODUCTS OR SERVICES, OR THEIR QUALITY. **BUYER'S SOLE REMEDY SHALL BE REPLACEMENT OR REPERFORMANCE OF DEFECTIVE PRODUCTS OR SERVICES ONLY.**

11. Limitation of Liability

11.1 This Section 11 applies in the aggregate and not on a per claim basis, whether any damages are characterized in tort, negligence, contract, or other theory of liability, regardless of whether a party has been advised of the possibility of or could have foreseen any damages, and irrespective of any failure of essential purpose of a limited remedy.

11.2 SELLER'S AGGREGATE LIABILITY IN DAMAGES OR OTHERWISE ARISING FROM OR RELATED TO THIS CONTRACT WILL IN NO EVENT EXCEED THE AMOUNT, IF ANY, RECEIVED BY SELLER FOR THE VALUE OF THE PRODUCTS OR SERVICES WHICH GIVE RISE TO A CLAIM PURSUANT TO THE APPLICABLE ORDER. IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR SPECIAL LOSS DAMAGES OF ANY KIND, INCLUDING LOSS OF PROFITS, HOWEVER CAUSED, OR ANY PUNITIVE, EXEMPLARY, OR OTHER DAMAGES FOR ANY REASON WHATSOEVER WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. Regulations and Compliance

12.1 Buyer shall ensure that when using the Products supplied by Seller, they shall comply with all applicable safety and environmental protection regulations, including regulations, instructions, and directions relating to order, safety, environmental protection, and control that apply locally where Products are used.

12.2 If any license or consent from any third party (including without limitation any governmental or other authority) is required in connection with Buyer's purchase or use of the Products or Services, Buyer shall obtain the license or consent at its own expense and produce evidence of it to Seller on demand. Failure to obtain any license or consent does not entitle Buyer to withhold or delay payment of the Price. Any additional expenses or charges incurred by Seller resulting from such failure shall be paid by Buyer.

13. Indemnification

13.1 NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONTRACT TO THE CONTRARY, BUYER AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS SELLER, ITS SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, SUBCONTRACTORS, CONSULTANTS, AND AGENTS FROM AND AGAINST ANY AND



ALL CLAIMS, DEMANDS, DAMAGES, LOSSES, AND EXPENSES ARISING OUT OF, IN CONNECTION WITH OR RESULTING FROM (A) ANY ACT OR OMISSION IN THE PERFORMANCE OF WORK OR FROM BUYER-PROVIDED MATERIALS, OR (B) ANY BREACH BY BUYER OF THE CONTRACT. SUCH INDEMNIFICATION OBLIGATION INCLUDES BUT IS NOT LIMITED TO THE PAYMENT OF ALL REASONABLE ATTORNEYS' FEES, COSTS, AND EXPENSES OF CONSULTANTS AND EXPERT WITNESSES, COSTS OF APPEAL, AND OTHER COSTS INCURRED IN DEFENDING ANY SUCH CLAIMS. BUYER WILL UTILIZE COMPETENT COUNSEL ACCEPTABLE TO SELLER IN ITS SOLE DISCRETION.

14. Intellectual Property Rights

14.1 All Intellectual Property Rights of any kind relating to the Products, Services, or the related documentation, including process recipes, patents, rights to inventions, copyright, and related rights, moral rights, trademarks, trade secrets, know-how, business names, domain names, rights in designs, rights in computer software, database rights, and all other Intellectual Property Rights of which the Seller is either the owner or licensee, in each case whether registered or unregistered and including all applications for, registration of, and rights to apply for, any such rights (“**Seller IP**”) shall remain the exclusive property of Seller and shall be considered Confidential Information subject to the provisions of Section 15 of these Terms and Conditions.

14.2 To the extent that the said Seller IP is used or incorporated into the Services or any part of the Products, Seller hereby grants to Buyer a non-exclusive, royalty-free, license, revocable only for breach by Buyer of the terms of the contract or these Terms and Conditions, to use Seller IP solely to the extent necessary to use the Products and Services in Buyer’s ordinary course of business and for no other purpose, including to reverse engineer, disassemble, compete or circumvent Seller’s business opportunities. In no event shall the licensing of Seller IP be considered a transfer of Seller IP to Buyer. Seller retains all rights not expressly granted to Buyer.

15. Confidential Information

15.1 All Confidential Information disclosed by Seller to, or learned by, Buyer shall be deemed to be Seller’s Confidential Information, regardless of whether marked or identified as “CONFIDENTIAL” or “PROPRIETARY.” For the avoidance of ambiguity, Confidential Information includes Seller’s Process Recipe.

15.2 The obligations and restrictions in this Section shall not apply to Confidential Information that falls within the following exceptions, provided, however, that any combination of individual items of information shall not be deemed to be within any of the exceptions merely because one or more of the individual items are within such exception, unless the combination as a whole is within such exception:

(a) is or becomes part of the public domain through no act or omission of Buyer;

(b) is in the rightful possession of Buyer without confidentiality obligations at the time of disclosure by Seller to Buyer as shown by Buyer’s then-contemporaneous written files and records kept in the ordinary course of business; or



(c) is obtained by Buyer from a third party without an accompanying duty of confidentiality and without a breach of such third party's obligations of confidentiality.

15.3 Buyer may disclose Seller's Confidential Information to the extent required by applicable law, rule or order of court, or government regulation; provided, however, that Buyer shall take reasonable measures to preserve confidentiality of any such disclosure and shall provide sufficient prior written notice to Seller to permit Seller to take steps to avoid the need for such disclosure or to obtain a protective order governing the same, and Buyer will furnish only that portion of Seller's Confidential Information that is legally required to be disclosed, and any of Seller's Confidential Information so disclosed shall maintain its confidentiality protection for all purposes other than such legally compelled disclosure.

15.4 Buyer agrees to protect Seller's Confidential Information with the same degree of care that it uses to protect its own Confidential Information, but in all events will use at least a reasonable degree of care. In addition to such degree of care, Buyer shall not in any way:

(a) disclose or otherwise transfer Seller's Confidential Information to any third party at any time except as approved by Seller in writing in advance;

(b) use, copy, reproduce (whether by mechanical or electronic means), modify, disassemble, decompile, reverse engineer or transfer Seller's Confidential Information and, provided that the Buyer shall be permitted to review Seller's Confidential Information as necessary for the use of Products, or as otherwise authorized by Seller in writing, in each case only to the extent necessary for such purpose;

(c) remove any trademark, copyright, patent, or mask work notices or other proprietary legends contained within any of Seller's Confidential Information; or

(d) disclose the Parties' discussions about Seller's Confidential Information to any third party.

15.5 Buyer agrees that it is permitted to disclose Seller's Confidential Information only to its employees who have a specific need to know such information regarding the use of Products, and in each case, only to the extent necessary for the use of Products. Buyer will cause all of its employees to comply with this Section. Buyer will promptly report to Seller any actual or suspected violation of this Section 15 and will take all further steps requested by Seller to prevent, control, or remedy any such violation. Any failure by any of Buyer's employees to comply with this Section, or any act or omission by any of Buyer's employees that, if committed by Buyer, would constitute a breach of this Section, will constitute a breach of these Terms and Conditions by Buyer for which Buyer will be jointly and severally responsible.

15.6 Notwithstanding the obligations herein, the U.S. Defend Trade Secrets Act of 2016 ("DTSA") provides that an individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (iii) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. In addition, DTSA provides that an individual who files a lawsuit for retaliation by an



employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual (A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.

16. Export Regulation

16.1 The Products are subject to export control restrictions, including dual-use export controls. Both parties will comply with all applicable laws, regulations, administrative or regulatory decisions or guidelines (including any future amendments to these provisions), or any other laws, regulations, administrative, or regulatory decisions, or guidelines adopted, maintained, or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control, the U.S. Department of Commerce's Bureau of Industry and Security, the United Nations Security Council, the European Union, the United Kingdom, or other relevant sanctions authority where the parties operate ("**Sanctions Agency**") on or after the date of the Order that sanction, prohibit, or restrict certain activities in connection with these Terms and Conditions.

16.2 Both parties confirm that they have not violated, shall not violate, and shall not cause the other party to violate, any applicable Trade Control Laws.

16.3 If (i) Trade Control Laws are issued or amended after the date of the Order, (ii) Buyer is/becomes a Restricted Person, (iii) any necessary export license or authorization from a Sanctions Agency is not granted, or (iv) the performance by Seller or by any affiliates becomes illegal or impracticable, Seller shall, as soon as reasonably practicable, give written notice to the Buyer of its inability to perform or fulfill such obligations. Seller shall be entitled to either (i) immediately suspend the performance of the affected obligation under the Order Confirmation until such time as Seller may lawfully discharge such obligation, or (ii) unilaterally terminate the Contract in whole or in part from the date specified in the said written notice or from any subsequent date thereafter. Seller will not be liable to the Buyer for any costs, expenses or damages associated with such suspension or termination of the Contract.

16.4 Seller and Buyer shall undertake to obtain all the necessary licenses or permits from the competent authorities for the import or export of the Products. In particular, Products that are subject to the U.S. Export Administration Regulations or U.S. International Traffic in Arms Regulations must not be exported, re-exported, transferred, or otherwise disposed of without obtaining the valid licenses or authorizations of the competent U.S. authorities, including non-U.S. items with controlled U.S. content above the permitted de-minimis level and non-U.S. items with controlled U.S. content for which there is no de-minimis level, or any activities prohibited for U.S. persons.

16.5 Buyer represents and warrants that it will not directly or indirectly sell, export, re-export, release, transmit or otherwise transfer any Products received from Seller to any third party, country, or region in violation of Trade Control Laws or in any manner that would cause Seller to violate Trade Control Laws, including prohibitions applicable to activities of U.S. persons under Trade Control Laws.



16.6 If Buyer notices that it has acted in infringement of applicable Trade Control Laws in connection with the Contract, Buyer must notify Seller, in writing, thereof within fourteen (14) days. In the event of infringement of applicable Trade Control Laws in connection with the Contract or breach of the obligation to notify, Seller shall have the right to terminate the Contract for cause. Buyer will be liable for any costs, expenses or damages associated with such termination of the Contract.

17. General

17.1 The Quotation, the Order, the Order Confirmation and these Terms and Conditions constitute the entire Contract between the parties in relation to its subject matter. No modification, amendment, rescission, waiver or other change in the terms of the agreement will be binding on Seller unless agreed to in writing by Seller.

17.2 Each party shall comply with all applicable laws including, but not limited to, applicable Trade Control Laws. Buyer shall not export or re-export any Products without the appropriate licenses, and Buyer shall defend, indemnify, and hold Seller and all of its suppliers harmless from any claims arising out of Buyer's violation of applicable export control laws.

17.3 The failure or delay of Seller to exercise or enforce any right or claim does not constitute a waiver of such right or claim and shall in no way affect Seller's right to later enforce or exercise it, unless Seller issues an express written waiver, signed by a duly authorized representative. No single or partial exercise of a right or remedy provided by these Terms and Conditions or by law by Seller prevents further exercise of the right or remedy or the exercise of another right or remedy.

17.4 Buyer may not assign any of its rights under the Contract unless Seller has given its prior written consent. Any warranties extended by Seller (i) are non-transferable and for Buyer's benefit only; and (ii) shall expire effective immediately if Buyer resells or otherwise transfers the warranted Product or Services to any third party. Seller has the right at any time to assign all or any of its rights under the Contract or sub-contract all or any of its obligations for the sale of the Products or Services to any other associated or connected company, subsidiary, or holding company as it may from time to time decide without giving notice of the same to Buyer.

17.5 If and to the extent any provision of these Terms and Conditions is held illegal, invalid, or unenforceable in whole or in part under applicable law, such provision or such portion thereof shall be ineffective as to the jurisdiction in which it is illegal, invalid, or unenforceable to the extent of its illegality, invalidity, or unenforceability and shall be deemed modified to the extent necessary to conform to applicable law so as to give the maximum effect to the intent of the parties. The illegality, invalidity, or unenforceability of such provision in that jurisdiction shall not in any way affect the legality, validity, or enforceability of such provision in any other jurisdiction or of any other provision in any jurisdiction.

17.6 These Terms and Conditions shall be governed by and construed in accordance with law of the State of Arizona, excluding its conflicts of laws provisions. The United Nations Convention on the International Sale of Goods will not apply to this Agreement or transaction. Any dispute arising out of or in connection with these Terms and Conditions, including any



question regarding their existence, validity, or termination, shall be referred to and finally resolved by the federal or state courts of the State of Arizona.