

## **Distributor Agreement**

(NON-EXCLUSIVE)

THIS DISTRIBUTOR AGREEMENT ("Agreement") is made effective as of August 5th, 2019, between AAR Supply Chain, Inc., with facilities located at 1100 North Wood Dale Road, Wood Dale, IL 60191 ("Distributor" or "Buyer") and Leach International Corporation, a Delaware corporation with facilities located at 6900 Orangethorpe Avenue, Buena Park, CA 90620 ("Manufacturer" or "Seller").

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree to as follows:

### **1. Distribution Rights**

- 1.1. Manufacturer hereby appoints Buyer as a non-exclusive distributor with rights to sell parts, spare parts and materials manufactured by Seller as described in Appendix 1 hereto (the "Products") to ("End Users") in the territory and to the markets and customers listed on Appendix 2 as "Included Territory", but not in the territory or to the markets and customers listed on Appendix 2 as "Excluded Territory". .
- 1.2. Manufacturer will not appoint any other party to be a distributor in the Included Territory during the term of this Agreement. The intent of this Agreement is that Manufacturer will not sell direct to customers to compete with Buyer's legacy business in the Included Territory and Market, however, Manufacturer may at any time with 180 days' written notice to Buyer, sell spare parts and materials directly to any User anywhere in the world regardless of territory or market. Buyer's Total Sales Volume and Inventory requirements will be reduced accordingly in this instance.
- 1.3. Notwithstanding the above, Buyer agrees to exercise its reasonable best efforts to promote and sell the Products to achieve a reasonable Total Sales Volume of Products as defined in the Appendix 2. Failure to demonstrate best efforts could result in termination of this Agreement in accordance with Paragraph 8.1.
- 1.4. Buyer and Seller will review the Total Sales Volume of Products Targets at a minimum every six (6) months. Seller will reasonably consider Buyer's input in setting sales targets, but Seller will have sole authority on setting sales targets.
- 1.5. As and when Manufacturer manufactures additional spare parts and materials for aftermarket end users of Leach targeted markets, such spare parts and materials will, if mutually agreed between the parties, be included as Products under Buyer's distribution rights hereunder.
- 1.6. Unless mutually agreed to otherwise in a signed amendment to this Agreement, Buyer agrees not to represent in the marketplace any competitive products from other manufacturers listed in Appendix 3 that directly compete with the Products. Buyer agrees that competitive products are not to be represented by AAR and/or AAR affiliates without prior written approval of Manufacturer. Buyer must be granted such approval prior to distributing or entering into a distribution agreement where any competitive part sales would be involved. Buyer upon notification to Seller may, however, stock for sale any product required to support Boeing programs, providing this is not offered as replacement to Manufacturer product.

- 1.7. In order to rapidly grow its inventory and be able to efficiently serve the market needs, Buyer will order an initial stocking package of Ten Millions of Dollars (\$10M) worth of Products and take delivery as soon as the Manufacturer will make those Products available. Manufacturer will do its best efforts to make those Products available for the Buyer as soon as possible.

## **2. Pricing**

- 2.1. Seller will sell its Products to Buyer at a 10% discount from the List Prices shown on Appendix 1 hereto. All prices will include packing in accordance with ATA Specification 300 commercial shipping practices for aviation parts in effect at the time of shipment. Seller may modify the List Prices shown on Appendix 1 from time to time upon thirty (30) days advance written notice to Buyer. Price changes shall be applied to all of Buyer's open orders on the date that the price change is effective. Nothing herein shall limit Seller's sole right to establish the List Prices shown on Appendix 1. Should the Buyer's margin for sales of Products exceed 10%, Buyer shall share 50% of such excess to Seller. For example, if the Buyer's margin is 16%, Buyer shall pay Seller the 3% in excess of 13%. Buyer and Seller will meet Monthly to review Buyer's data, review new business opportunities/the business outlook, and to establish any margin settlement amount necessary for the prior three months of activity.
- 2.2. Neither Buyer nor Seller has made any agreement with respect to the price Buyer may charge its customers. Buyer acknowledges that it is free to set the price at which it sells the Products.
- 2.3. Buyer shall place purchase orders for Products at the Product lead times as identified by Seller. Seller will generally acknowledge all purchase orders placed by Buyer within five (5) business days of receipt from Buyer.

## **3. Shipping Terms**

- 3.1. Products ordered by Buyer will be shipped using 2010 Incoterms EXW from Manufacturer's factory. Title and risk of loss will transfer to Buyer upon shipment from Seller's facility. Buyer will pay all of Manufacturer's invoices on a net 30 basis from the later of receipt by Buyer of the product or the invoice including in case of early shipments (not to exceed 30 days) and partial shipments. All sales by Manufacturer to Buyer will be subject to Manufacturer's Standard Terms and Conditions of Sale attached here as Appendix 5, except to the extent such terms and conditions conflict with the provisions of this Agreement, in which case the provisions of this Agreement will control. Any additional or contradictory terms in any purchase order or other communication from Buyer are hereby objected to and shall have no effect. No course of dealing and no custom or usage in the trade will be relevant to supplement or explain, in any additional or inconsistent manner, any term in this Agreement or in Manufacturer's Standard Terms and Conditions of Sale.

## **4. Warranty**

- 4.1. Except as set forth in Section 4.2, Manufacturer makes no warranties or representations whatsoever, whether express or implied, with respect to Manufacturer Products except such warranty as shall from time to time be Manufacturer's standard limited warranty with respect to each Manufacturer Product in question. At the time each Product is delivered to Buyer, Manufacturer shall be deemed to have warranted each such product in the manner and to the extent set forth in the effective limited warranty applicable thereto. In connection with each sale

of a Product, Buyer shall pass Manufacturer's warranty on to its customer. Buyer agrees to make no other promise, representation or warranty or any kind or character whatsoever, express or implied, with respect to a Product except the Manufacturer warranty applicable thereto. Manufacturer shall have no liability or obligation whatsoever to Buyer or any other person other than the applicable Manufacturer warranty, furthermore, Buyer will be responsible for any Product warranty to the extent made by Buyer. .

4.2. Manufacturer warrants that:

- (a) The Products furnished under this Agreement shall conform to all of Manufacturer's specifications;
- (b) For Products that have a shelf life, such Products will have the greater of (a) ninety percent (90%) of its shelf life or (b) two (2) years of shelf life remaining at the time of shipment;
- (c) The Products shall not infringe any patent, copyright, trademark, or other proprietary right of any third party or misappropriate any trade secret of any third party; and
- (d) The Products shall be free from liens or encumbrances.

4.3 The Buyer shall have no responsibility for testing or inspecting to specifications the Products it receives from the Company.

4.4 In the event of a customer warranty claim, Manufacturer shall issue a return material authorization ("RMA") upon a request from the Buyer. On receipt of a customer warranty claim, the Buyer shall promptly pass the claim to Manufacturer. Within thirty (30) days of notice of the customer warranty claim, Manufacturer shall either accept or deny the warranty claim. Products received from customers with shipping damage shall not be returned to Manufacturer and shall be handled directly by the Buyer, the customer or the shipper unless the basis of the warranty claim is unrelated to damage caused by shipping. Manufacturer shall resolve all closeout activities to include credit or exchanges, or as agreed with the Buyer; if exchanges are not immediately available and a credit is requested and the Buyer has the same part number in stock, a credit will be authorized no later than thirty (30) days after a warranty claim is approved.

5. **Inventory**

5.1. Buyer will maintain an agreed to on hand inventory of Products sufficient to reasonably meet the sales demand based on total inventory identified of Appendix 4. At mid-year, the parties will review market demand and other market feedback to mutually agree upon appropriate inventory changes. In the event that inventory reductions are necessary and unless mutually agreed otherwise, monthly orders shall be placed at a level no less than 90% of the prior 6 months average monthly sales (as measured by point of sale data) until the new inventory level is reached. At least each quarter, Buyer will provide Manufacturer with a rolling monthly forecast of requirements for the upcoming twelve (12) months. Buyer will maintain a backlog of firm purchase orders with Manufacturer to meet the forthcoming ten (10) months of forecasted sales based upon the prior 6-12 months average monthly sales. Buyer shall provide Manufacturer from time to time as Manufacturer may require a report of its activities with respect to Products during such month or year, which report shall be in such form and in such detail as Manufacturer may reasonably require and shall permit Manufacturer or its designee to visit Buyer's customers and to visit Buyer's place of business and inspect its inventories, service records, and other relevant documents. At the end of each calendar year, Buyer will report list to Manufacturer of part numbers that have been in Buyer's inventory for more than twelve

months for which there have been no customer orders within past twelve months. Manufacturer agrees to work with Buyer to find sales channel that allows Buyer to sell product with suggested sales margin. In addition Buyer is required to provide each month an inventory level report detailing the quantities remaining in their stock for each Manufacturer's Part Number.

- 5.2. All Products returned to Manufacturer under Paragraphs 4.4 and 7.2 will be shipped to Manufacturer EXW Buyer's warehouse; and shall be (i) in new and in original, undamaged cartons, (ii) in Manufacturer's most recently published catalog, (iii) not obsolete, damaged or otherwise not able to be resold and (iv) Products purchased by Distributor within the immediately preceding twelve (12) month period.
- 5.3. Actual lead times will be established by Manufacturer. If Manufacturer provides a matched invoice aligned with Distributor PO, Buyer agrees to accept partial delivery of its orders to Manufacturer from products in stock at time of the order. Buyer agrees to take delivery of shipments up to 30 days early to the due date. Unusual items may require extended deliveries. The above does not relieve Buyer's commitment to provide Manufacturer with firm order backlog as specified in Paragraph 5.1.
- 5.4. Buyer shall every month end provide Seller with point of sales reports and updates from Buyer's field sales calls with customers as well as customer contact information as may be requested by Seller. Point of sales reports will include sell date, customer name, Leach part number, quantity sold, actual sales price, and any other special terms agreed upon between Buyer and their end customer that are outside of normal practice for the Buyer, in addition this report should highlight the monthly On Time Delivery level for distributed products as well as a summary/update on new business development initiatives to increase sales of the distributed products.

## **6. Sales Promotion**

- 6.1. Buyer agrees to exercise commercially reasonable efforts to promote, sell and service the Products in the Included Territory. Buyer shall promptly respond to all inquiries from customers, including complaints, process all orders, and effect all shipments of Products. Buyer shall train and maintain a sufficient number of capable personnel to service the demands and needs for marketing the Products in the Included Territory and otherwise necessary to carry out the obligations and responsibilities of the Buyer under this Agreement. Buyer shall not take any action which could adversely affect Manufacturer, the Products, any of the Trademarks or other interest of Manufacturer in either the Included Territory or Excluded Territory, including without limitation, Manufacturer's market share in such Territories.

## **7. Term**

- 7.1. This agreement will be effective as of August 5th, 2019 and will remain in effect until December 31, 2020. Each year there will be a mid-year review of Buyer's performance of Total Sales Volume as defined in Appendix 2. If for any reason either party fails to renew or Manufacturer so terminates this Agreement under Paragraph 1.3, Manufacturer will have the option to repurchase all of Buyer's inventory of Products manufactured by Manufacturer by exercising the option in writing within 30 days from the date of expiration or termination of this Agreement at Buyer's acquisition cost for such items plus a reasonable handling/restocking fee not to exceed Ten percent (10%). The closing of the purchases described above will be completed within 90

days after the effective date of the termination of this Agreement. Buyer reserves the right to sell any remaining inventory not repurchased by Manufacturer to the market.

- 7.2. In addition, this Agreement may be immediately terminated by the Buyer or Manufacturer giving written notice of such termination to the other party upon the occurrence of one or more of the following events: (a) the other party voluntarily files a petition in bankruptcy or has such a petition involuntarily filed against it (which petition is not discharged within thirty days after filing), or is placed in an insolvency proceeding, or ceases doing business, or if any order is entered appointing a receiver or trustee for a substantial portion of its assets which order is not vacated, set aside or stayed within thirty days from date of entry, or if any assignment for the benefit of its creditors is made; or (b) the other party fails substantially to perform any covenant, representation or warranty made or to be performed hereunder, or violates any covenant, agreement or representation or warranty herein contained, provided that such default is not remedied to the complaining party's satisfaction within thirty (30) days after written notice to the other party to correct such default.
- (a) Upon any such termination by Manufacturer, Manufacturer will have the option to purchase from Buyer for cash any or all of the Products held by Buyer by exercising the option in writing within 30 days from the date of termination at Buyer's original acquisition cost of such items minus a reasonable handling/restocking charge not to exceed 10%. Buyer will return all such items purchased by Manufacturer to Manufacturer within 10 days of notice by Manufacturer that it is exercising such option. Manufacturer will pay for shipping costs if Manufacturer terminates contract. Manufacturer shall pay Buyer for such Products actually returned after inspection, but no later than 30 days after delivery. Manufacturer will support Buyer "Airline Contracts" as identified by the Buyer for a reasonable period of transition not to exceed 180 days from termination. Buyer reserves the right to sell any remaining inventory not repurchased by Manufacturer to the market.
- (b) Upon any such termination by the Buyer, the Buyer may offer to Manufacturer the right to purchase all inventory of Products that were purchased by the Buyer under this Agreement by Manufacturer exercising the option in writing within 30 days from the date of termination at Buyer's acquisition cost for such items plus a reasonable handling/restocking fee not to exceed Ten percent (10%). Buyer will deliver the Products EXW (Incoterms 2010) the Buyer's warehouse dock. Buyer will return all such items purchased by Manufacturer to Manufacturer within 10 days of notice by Manufacturer that it is exercising such option. Manufacturer shall pay Buyer for such Products actually returned after inspection, but no later than 30 days after delivery. Manufacturer will support Buyer "Airline Contracts" as identified by the Buyer for a reasonable period of transition not to exceed 180 days from termination. Buyer reserves the right to sell any remaining inventory not repurchased by Manufacturer to the market. The costs of shipping the Products to Manufacturer will be borne by Manufacturer.
- (c) Upon the expiration or termination of this Agreement, all rights and licenses granted Buyer hereunder will terminate and Buyer must immediately cease using all Trademarks, as set forth herein. Termination of this Agreement will also not relieve either party of any liability accrued prior to the effective date of such termination.
- 7.3. Upon the expiration of this Agreement (but not termination), Manufacturer shall purchase from the Buyer all of the Products remaining in the Buyer's stock at the Buyer's Current Average Cost (as defined below) for such Product. The Buyer shall deliver Products to Manufacturer EXW

(Incoterms 2010) the Buyer's warehouse dock within thirty (30) business days after the expiration date of this Agreement. Manufacturer shall pay the price cash-on-delivery or as a credit against any amount then owing by the Buyer to Manufacturer at the time of delivery. The "Current Average Cost" means, on a given day, the average of the purchase price paid by the Buyer to Manufacturer for each Product recalculated at the point of each purchase and sale of that Product as reflected in the Buyer's perpetual inventory system as of 12:00 noon (CST) on that day.

#### **8. Termination for Convenience**

8.1 This Agreement may be terminated at any time by either party upon written notification or upon the date for termination set forth in a written notice given by one Party to the other not less than ninety (90) days prior to such date. If Manufacturer terminates this agreement before the first anniversary of the agreement, Manufacturer shall purchase from the Buyer all of the Products remaining in the Buyer's stock at Buyer's original acquisition cost. If Manufacturer terminates this agreement for convenience between the first and second anniversary of the agreement, Manufacturer agrees to purchase from the Buyer half, in value based on Buyer's original acquisition cost, of the Products remaining in the Buyer's stock at Buyer's original acquisition cost, and part numbers to be chosen at the Buyer's discretion. The Buyer and Manufacturer agree to allow continued sales of products by the Buyer to their open territories, markets or accounts until inventory is depleted, or Manufacturer has the option to purchase from Buyer for cash any or all of the Products held by Buyer at Buyer's original acquisition cost plus a reasonable handling/restocking fee not to exceed ten percent (10%).

#### **9. Claims**

9.1. Manufacturer will, at its own expense, defend any patent infringement claims or suits instituted against Buyer or any of its customers arising from the sale or use of products manufactured by Manufacturer. Buyer will provide Manufacturer with prompt notice in writing after learning of such claims or suits, will permit Manufacturer to defend such claims or suits and will provide reasonable assistance at Manufacturer's expense and authority required for Manufacturer's defense of such claims and suits. Manufacturer will pay any final judgment for damages and costs resulting from any such patent infringement suits. No settlement shall be made without Manufacturer's written consent. In the event that the sale or use of any of Manufacturer's products is enjoined in any such suit, Manufacturer will protect Buyer and its customers by one of the following methods, at Manufacturer's election: (i) secure the right for Buyer and its customers to continue selling or using such product, (ii) replace the infringing product with comparable non-infringing product, (iii) modify the infringing product so that it ceases to infringe or (iv) remove the infringing product and refund the purchase price paid by Buyer. Manufacturer shall have no liability whatever for patent infringement by reason of any product or part manufactured to Buyer's or its customer's design, nor shall Manufacturer be bound to defend any suit or to indemnify or protect Buyer to its customers by reason of any alleged infringement arising from the use of parts not furnished by Manufacturer.

#### **10. License Rights**

10.1. Subject to the terms of this Agreement, Manufacturer hereby grants Buyer a non-exclusive, non-transferable license to use each of the Trademarks (as defined below) as a trademark on or in connection with the marketing, distribution or sale of the Products in the Included Territory. As used in this agreement, "Trademarks" means each trademark, tradename or service mark

used on or in connection with the Products, whether or not such trademark, tradename or service mark, is now or hereafter, registered, with or in connection with Products.

10.2. Buyer expressly agrees not to use the Trademarks in any manner not expressly licensed herein.

Buyer agrees not to use any of the Trademarks or Material (as defined below) in connection with any equipment or accessory that is not a Product, or in connection with Products which Buyer has modified in any way, without obtaining Manufacturer's prior express written permission. Manufacturer reserves the right to inspect all Materials used by Buyer upon reasonable notice. Prior to using any Materials not provided by Manufacturer to Buyer, Buyer shall obtain Manufacturer's written approval. Buyer specifically agrees not to use any of the Trademarks or Material in combination with any other trademark, service mark or tradename (unless already included in or on the Material by Manufacturer) without obtaining Manufacturer's prior express written permission which shall not be unreasonably withheld. As used in this agreement, "Materials" means any carton, container, packaging, wrapping material, labeling, stationery, letterhead, business card, advertising, literature, video or promotional or display material and any other item which bears any of the Trademarks. Buyer agrees not to register or use any trademark, service mark or trade name which is confusingly similar to any of the Trademarks.

10.3. Subject to the terms of this Agreement, Buyer is granted no right or title in or to the Trademarks under this Agreement or the goodwill associated therewith and Buyer may not represent in any manner that it has ownership in any of the Trademarks or goodwill. Buyer acknowledges that its use of any of the Trademarks will not create any right, title or interest in any of the Trademarks or goodwill in Buyer but that all such use by Buyer will inure to the benefit of Manufacturer. Buyer agrees to sign any appropriate documents necessary to vest title in any such Trademarks in Manufacturer, to the extent it is legally able to do so. At no time during the term of this Agreement will Buyer dispute the validity of any of the Trademarks or the right of Manufacturer to the absolute ownership of the same. Buyer may not use any of the Trademarks on or in connection with the sale, distribution, or disposal of any product not manufactured, distributed or sold by Manufacturer or its affiliates or subsidiaries without the prior written approval of Manufacturer.

10.4. Buyer agrees to notify Manufacturer immediately in writing of any counterfeiting or infringement of any of the Trademarks which may come to its attention. Manufacturer has primary responsibility and control to investigate and in bringing at its own expense all legal actions for counterfeiting or infringement of any of the Trademarks. All monetary recoveries from such legal actions, whether by judgment, award, decree or settlement, will be awarded to Manufacturer. Manufacturer will also have complete discretion to compromise, abandon or submit to judgment in any such proceedings on such terms as Manufacturer may deem appropriate. If requested by Manufacturer, Buyer will furnish all reasonable assistance to Manufacturer in such proceedings, and Manufacturer shall reimburse all expenses and costs in connection therewith.

## 11. Notices

11.1. Notices to the parties hereto shall be delivered personally in writing or by First Class mail, return receipt requested, addressed to Manufacturer or Buyer (as the case may be) at the address indicated below, unless the receiving party has given notice to the sending party of a change of address:

Manufacturer

Leach International Corporation  
Attn: Wolfgang Hombrecher  
Address : 6900 Orangethorpe Ave  
Buena Park, CA 90620

Distributor

AAR Supply Chain, Inc.  
Attn: Eric Young  
Address: 1100 N. Wood Dale Road,  
Wood Dale, IL 60191

All notices will be deemed to have been given when delivered in person or 5 business days after being deposited in the US Mail.

**12. Governing Law**

- 12.1.The interpretation, construction and performance of this Agreement shall be governed by the laws of Delaware, without giving effect to the conflict of laws principles of such state that would require the application of the laws of another jurisdiction, and specifically excludes the U.N. Convention on Contracts for International Sale of Goods.
- 12.2.Except as provided in Section 12.3, any dispute, breach, controversy or claim arising out of or relating to this Agreement shall be finally settled by arbitration in Dover, Delaware in accordance with the Commercial Arbitration Rules of the American Arbitration Association in effect on the date of this Agreement and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitration shall be conducted in the English language. This Section 13 provides the sole recourse for the settlement of any dispute or breach arising under or in connection with this Agreement.
- 12.3.The Parties agree that (a) monetary damages alone are an inadequate remedy for violations of Section 14 of this Agreement and, accordingly, a Party may seek equitable remedies, including injunctive relief, in any court of competent jurisdiction for a violation of such provisions, and (b) either party may commence litigation proceedings against the other party in a court of competent jurisdiction in connection with a claim asserted by a third party for which contribution may be available at law or in equity against the other party.
- 12.4.In the event of any dispute, breach, controversy or claim arising out of or relating to this Agreement, the transactions contemplated hereby or the subject matter hereof, resulting in arbitration hereunder, the prevailing Party shall, in addition to such other relief as an arbitrator may award, be entitled to recover reasonable attorneys' fees, costs and expenses (including, without limitation, attorneys' fees, costs and expenses in any arbitration proceeding or any settlement prior to or during such proceeding) from the breaching Party.

**13. Force Majeure**

- 13.1.The obligations of Manufacturer hereunder shall be suspended and excused for any delay or other non-performance due, in whole or in part, by acts of force majeure which shall include by way of example and not by limitation, (i) an act of God or of public enemy or war (declared or undeclared) or of persons engaged in subversive acts, espionage or civil commotion, (ii) an act of governmental or quasi-governmental persons or regulations or restrictions imposed by law or by court action, (iii) a fire, flood, earthquake, explosion or other catastrophe, (iv) an epidemic or quarantine restriction, (v) a strike, slowdown, lockout or labor stoppage or dispute of any kind, or (vi) a failure of usual sources of supply of materials, parts, power or transportation. If force

majeure events affect Manufacturer's ability to supply the Products or otherwise perform its obligations, Manufacturer will take such action and make such accommodations as necessary to treat Buyer no worse than Manufacturer's similarly situated customers.

#### **14. Proprietary Information**

14.1. During the term of this Agreement and at all times thereafter, each party (or its affiliates) (the "receiving party") shall hold in secrecy, as trustee or custodian for the other party (the "disclosing party") and for the disclosing party's exclusive benefit and use, and shall faithfully do all in its power to reasonably assist the disclosing party in holding in secrecy, all confidential or proprietary information of the disclosing party not generally known by the public or by competitors of the disclosing party that have been marked as "Proprietary" or "Confidential" or bears some other proprietary designation, or if disclosed orally, has been designated by the disclosing party as confidential in a letter or other written statement made to the receiving party promptly following its disclosure. Confidential Information does not include information that (a) is independently developed by the receiving party without violating the disclosing party's proprietary rights, (b) is or becomes publicly known (other than through unauthorized disclosure by a receiving party), (c) is already known by the receiving party at the time of disclosure without any obligation of confidentiality to the disclosing party, or (d) is disclosed to a party by a third person which the recipient reasonably believes has legitimate possession thereof and the unrestricted right to make such disclosure; it being understood that all such information is and shall remain the exclusive property of the disclosing party.

#### **15. Export Control**

15.1. The Parties shall comply with all export, import and sanction laws, regulations, decrees, orders, and policies (as amended) of the United States Government, the Government of any country in which the Parties conduct business pursuant to this Agreement and the Government of any country which may exercise lawful jurisdiction over the controlled Products, including but not limited to the Export Administration Regulations ("EAR") of the U.S. Department of Commerce, the International Traffic in Arms Regulations ("ITAR") of the U.S. Department of State, the U.S. Customs & Border Protection Regulations, the Harmonized Tariff Schedule, and the anti-boycott and embargo regulations and guidelines as set forth in the EAR and in the U.S. Department of the Treasury, Office of Foreign Assets Control (collectively, "Trade Control Laws").

15.2. Manufacturer shall control the disclosure of, and access to, controlled Products or technical data provided by the Buyer related to performance of this Agreement in compliance with all applicable Trade Control Laws. Manufacturer shall not transfer (to include transfer to foreign persons employed by or associated with, or under contract to Manufacturer, or Manufacturer's sub-tier suppliers or Manufacturer's non-U.S. subsidiaries) any export controlled Product, data or services, without providing advance notice to the Buyer and obtaining the requisite export and/or import authority.

15.3. Subject to applicable Trade Control Laws, Manufacturer shall provide the Buyer with the export control classification of any commodity or technology including software. The Party providing controlled Products under this Agreement shall, upon request, notify the other Party of the Product's export classification (e.g., the Export Control Classification Numbers or United States Munitions List [USML] category and subcategory) as well as the export classification of any

components or parts thereof if the same are different from the export classification of the Product at issue. The Parties further agree that this export classification determinations shall be made by a qualified person (employee, consultant, advisor) empowered to act on behalf of the Party making the export classification and supported by bona fides evidence. Each Party agrees to reasonably cooperate with the other in providing, upon request documented evidence, proof or other supporting information that validates the export software determination.

- 15.4. Manufacturer shall promptly notify the Buyer if Manufacturer is, or becomes, listed in any Denied Parties List or if Manufacturer's export privileges are otherwise denied, suspended or revoked in whole or in part by any governmental entity.
- 15.5. Manufacturer shall timely inform the Buyer of any actual or alleged violations of any applicable Trade Control Laws, including any suits, actions, proceedings, notices, citations, inquiries, or other communications from any government agency concerning any actual or alleged violations, in Manufacturer's performance under this Agreement and shall comply with all reasonable requests from the Distributor for information regarding any such violations.
- 15.6. Manufacturer shall incorporate into any contracts with its sub-tier suppliers obligations no less restrictive than those set forth herein requiring compliance with all applicable Trade Control Laws.
- 15.7. If a Party engages in the export or import of a controlled Product in support of its duties and obligations imposed under this Agreement, then such Party conducting the export or import shall obtain all authorizations that are required under the applicable Trade Control Laws. Each Party shall cooperate and exercise reasonable efforts at its own expense to support the other Party in obtaining any necessary export and import authorizations required to perform its obligations under this Agreement. Reasonable cooperation shall include providing necessary documentation, (e.g. import certificates, end-user and retransfer certificates).

## **16. Ethics Compliance and Compliance with Laws**

- 16.1. Manufacturer, Buyer and the Products shall comply with all applicable statutes and government rules, regulations and orders. Without acting as a limitation, both parties comply with (a) all applicable country laws relating to anti-corruption or anti-bribery, including, but not limited to, legislation implementing the Organization for Economic Co-operation and Development "Convention on Combating Bribery of Foreign Public Officials in International Business Transactions" (the "OECD Convention") or other anti-corruption/anti-bribery convention, and (b) the requirements of the Foreign Corrupt Practices Act, as amended, ("FCPA") (15 U.S.C. §§78dd-1, et. seq.), regardless of whether the Company is within the jurisdiction of the United States, and both parties shall, neither directly nor indirectly, pay, offer, give, or promise to pay or give, any portion of monies or anything of value to a non-U.S. public official or any person in violation of the FCPA and/or in violation of any applicable country laws relating to anti-corruption or anti-bribery. Both parties warrant that neither they nor any of their employees, agents, or representatives have offered or given, or will offer or give, any gratuities to the each other's employees, agents or representatives for the purpose of securing this Agreement or securing favorable treatment under this Agreement.

## **17. Exclusion of Damages**

17.1. EXCEPT FOR CLAIMS BY THE BUYER PURSUANT TO SECTION 9.1 OR BY EITHER PARTY PURSUANT TO SECTION 14 IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER HEREUNDER FOR ANY SPECIAL DAMAGES, INDIRECT DAMAGES, EXEMPLARY DAMAGES, PUNITIVE DAMAGES, INCIDENTAL DAMAGES, CONSEQUENTIAL DAMAGES, OR LOSS OF USE OF ANY PROPERTY OR CAPITAL, EVEN IF EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES ARE REASONABLY FORESEEABLE. THE EXCLUSION OF SUCH DAMAGES AND/OR CLAIMS SHALL BE DEEMED INDEPENDENT OF, AND SHALL SURVIVE, ANY FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY UNDER THE TERMS OF THIS AGREEMENT. EXCEPT FOR CLAIMS BY THE BUYER PURSUANT TO SECTION 9.1 OR BY EITHER PARTY PURSUANT TO SECTION 14, THESE LIMITATIONS ON DAMAGES SHALL APPLY HOWEVER THE LOSS OR DAMAGE MAY BE CAUSED AND ON ANY THEORY OF LIABILITY WHETHER BASED ON CONTRACT, TORT OR OTHER LEGAL THEORIES INCLUDING, WITHOUT LIMITATION, NEGLIGENCE, STRICT LIABILITY OR UNDER ANY INDEMNITY OBLIGATION. NOTWITHSTANDING THE FOREGOING, CLAIMS BY ONE PARTY AGAINST THE OTHER PARTY FOR CONTRIBUTION (OR INDEMNITY) TOWARD THIRD PARTY INJURY, DAMAGE OR LOSS ARE NOT LIMITED, WAIVED, RELEASED OR DISCLAIMED.

## **18. Returns**

- (a) The Buyer may return to Manufacturer those Products rendered obsolete or less salable due to Manufacturer's redesign or an airworthiness directive, and Manufacturer will repurchase the Buyer's existing inventory of such Products at the original price paid by the Buyer to acquire such Products (the "Acquisition Cost"); and
- (b) Regarding Products that are rejected by Buyer due to not meeting the Seller's warranties provided hereunder, subject to confirmation of such non-performance by Seller, at Seller's option: (a) the Buyer may return such Products to Manufacturer, at Manufacturer's risk, for credit, and Manufacturer shall pay the Buyer the Acquisition Cost for such Products and all packing, handling and transportation expenses, or (b) Manufacturer, at its expense, and upon notification from the Buyer, will expeditiously replace any such Products with new, unused Products. Manufacturer will resolve any warranty issue within a commercially reasonable period of time following receipt of notice thereof from the Buyer. The Buyer will provide a monthly report of all defective or rejected Products to Manufacturer. Manufacturer agrees to complete and return all documentation reasonably required by the Buyer in conjunction therewith. Furthermore, Buyer will return rejected Product to Manufacturer at Manufacturer's expense and risk for Product that is replaced or for which a credit is issued. The remedies provided in this paragraph are Buyer's exclusive remedies for any breach of Seller's warranties hereunder.

## **19. Indemnification**

19.1. Each party shall indemnify and hold the other party harmless from and against all claims by and liabilities to third parties (together with all expenses including attorneys' fees incurred in connection therewith) (a) relating to or in any manner connected, directly or indirectly, with such party's failure to comply with the terms of this Agreement, or (b) resulting from any obligations, promises, warranties or representations that are made or entered into by a party or its agent or employees in violation of this Agreement.

Seller shall hold Buyer harmless and indemnify it from and against any and all claims, loss, cost, damage and expenses (including reasonable attorney's or solicitors' fees) which Buyer may

suffer as a result of any loss to the person or property of a third person arising directly or indirectly from the sale to or use by a third party of a Product; provided, however that Seller shall have no such obligation to so indemnify or hold Buyer harmless to the extent that any such claims, loss, cost, damage and expense arose from the deliberate or negligent action of Buyer or a breach of this Agreement by Buyer. If any legal proceedings shall be instituted or any claim is asserted by any third party in respect of which the Buyer may be entitled to indemnity under this Section, the Buyer shall give Seller prompt written notice thereof. Seller shall then have the right, at its option and expense, to control the defense, negotiation or settlement thereof, through counsel of its choice and at its expense.

## **20. Miscellaneous**

- (a) Survival. Sections 4, 7, 8, 9, 12, 15, 16, 17, 19, and 20 shall survive the termination of this Agreement.
- (b) Entire Agreement. This Agreement, including the Appendixes attached hereto and incorporated as an integral part of this Agreement, constitutes the entire agreement of the parties with respect to the subject matter hereof, and supersedes all previous agreements by and between the company and the distributor Manufacturer and Buyer with respect thereto, as well as all proposals and confidentiality agreements, oral or written, and all negotiations, conversations or discussions heretofore had between the parties related to this Agreement.
- (c) Conditions Applicable Only To Purchase Orders Placed Under Government Contract Or Subcontract. If a purchase order is placed by the Buyer pursuant to a Government prime contract or subcontract, Manufacturer must comply with all FAR or DFAR flow down clauses required by law.
- (d) Modification. No modification of this Agreement shall be binding on either party unless in writing and signed by the parties. Usage of trade, course of performance, and course of dealing cannot supplement or modify the written terms of this Agreement. Neither's party's failure to insist on strict performance of any term or condition hereof, failure or delay to exercise any right or remedy provided herein or by law, or failure to properly to notify the other party in the event of breach, or Buyer's acceptance of or payment for Products hereunder shall not release the other party from any of the obligations of this Agreement and shall not be deemed a waiver of any right to insist upon strict performance hereof or of any rights or remedies as to any prior or subsequent default hereunder nor shall any purported oral modification or rescission of this Agreement by either party operate as a waiver of any term or condition hereof.
- (e) Severability. If any provision of this Agreement is or becomes void or unenforceable by law, the remainder of this Agreement shall be valid and enforceable.
- (f) Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. However, no assignment by any party of this Agreement or any right or obligation hereunder may be made without the prior written consent of the other party, and any assignment attempted without that consent will be void.

- (g) Relationship of the Parties. Buyer and Manufacturer are each independent contractors. Nothing in this Agreement shall constitute the parties as partners, joint ventures, co-owners or otherwise as participants in a joint or common undertaking. Neither party shall be considered an agent or legal representative of the other for any purpose, and neither party nor any of their respective directors, officers, agents or employees shall be, or be considered, an agent or employee of the other. Neither Manufacturer nor Buyer has authority to assume or create any obligation or responsibility on behalf of the other or in the other's name, and neither Manufacturer nor Buyer will attempt to do so.
- (h) Section Headings. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.
- (i) Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same document.

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IN WITNESS HEREOF, the parties hereto have executed this Distributor Agreement as of the date first above written.

AAR Supply Chain, Inc.

By:

Printed Name: Eric Young

Position: Vice President

Leach International Corporation

By:

Printed Name: Michel Potvin

Position: President

**Appendix 1**

Price List to be provided after signature of this agreement

## **Appendix 2**

### **Included Territory and Market ; Excluded Territory and Market**

#### **Included Territory and Market:**

The Americas

To Commercial and General Aviation markets.

The Seller agrees that a trial period of 12 Months will be given to Buyer, on a non-exclusive basis, to demonstrate capability in serving USG Military Market (Defense Logistics Agency- DLA). The Seller retains the right to extend this trial period by increments of 12 months at its sole discretion. Upon conclusion of the trial period, the Seller will, at its sole discretion, decide if the USG Military Market (Defense Logistics Agency- DLA) is retained as part of the "Included Territory and Market".

Regardless of the above, the Seller shall retain the right to exclude USG Military Market (Defense Logistics Agency- DLA) from the "Included Territory and Market" at any time with 180 days' written notice to the Buyer.

#### **Excluded Territory and Market :**

Rest of World (other than The Americas)

Any Market

### **Total Sales Volume**

The "Total Sales Volume" means the Buyer's sales valued at the Buyer's acquisition cost (excluding freight or other charges) in the Seller's current fiscal year.

**Fiscal Year 2019/2020.** The Total Sales Volume for fiscal years 2019 and 2020 combined shall be at least \$32,000,000.

**Subsequent Fiscal Years.** The Total Sales Volume for each subsequent fiscal year shall be determined as soon as practicable by Seller and Buyer prior to the end of each fiscal year during the term of the Agreement. Appropriate adjustments shall factor in price increases and market growth changes.

### **Appendix 3**

#### **Competitive Products barred for sale by Buyer pursuant to this Agreement:**

- TE Connectivity (Relays and Contactors)
- FIRST Group (Relays)
- STPI (Relays)
- DEUTSCH or DRI (Relays)
- SAFRAN (Contactors)

**17. Affirmative Action**

The parties shall comply with all Federal equal employment opportunity obligations under 41 CFR 60-1.4(a), 60-300.5(a), 60-741.5(a) and federal labor law obligations under 29 CFR part 471, appendix A to subpart A. The parties shall abide by the requirements of 41 CFR 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified protected veterans and qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and qualified individuals with disabilities.

**18. Termination**

If Buyer elects to terminate or cancel in whole or in part this purchase order, termination charges shall be determined by Seller. Computation of charges shall include, but not be limited to, labor and materials expended in Seller's performance up to the time of notice to stop work and reasonable profit based upon completed performance. Seller shall take into account in determining termination charges the transfer of products and materials in progress to other open purchase orders for the purpose of reducing liability of the Buyer. During termination proceedings, Buyer shall not have access to Seller's books or records unless specifically agreed by Seller. If termination or cancellation involves a Government contract, the proceedings shall be governed by the appropriate provisions of the DAR, FPR, NASA, PR or FAR. Seller does not agree to the substitution of Buyer for government in termination clauses of purchase orders or contracts.

## **Appendix 4**

6 month Inventory Level calculation method(s):

- For determining new annual target:
  - Determine prior 6 month Point of Sale Average (Cost of Goods) per month
  - Multiply 6 months average month by (1+Manufacturer's FY Plan blended price increase %)

Example:

- 6 month POS total equals \$18.0M (inventory level)
- Average monthly total equals \$3.0M
- Manufacturer price increase percentage equals 7%
- $\$3.0M \times (1+.07) = \$3.21M$  (revised average monthly total)
- $\$3.21 \times 6 \text{ mos.} = \$19.26M$  (revised inventory level requirement)

- If a mid-year adjustment is required, the rolling 6 month average will be used to recalculate the target observing the inventory burn clause listed in paragraph 5.1

**Appendix 5**

**Standard Terms and Conditions**

**(see attached)**

**TERMS AND CONDITIONS OF SALE**  
**LC 3089 (07/15)**

**1. Acceptance**

The following are the Terms and Conditions upon which Leach International Corporation ("Seller") agrees to sell and deliver its products to Buyer. No contract for sale shall be formed until Seller issues a Sales Order Acknowledgement. Provisions and conditions of Buyer's order which are in any way inconsistent with or in addition to the provisions of these Terms and Conditions shall be inapplicable and not be binding upon Seller unless specifically agreed to by Seller in a supplemental writing signed on behalf of Seller by the appropriate authorized representative.

**2. Payment of Taxes**

Buyer shall be responsible for paying any and all local, state, territorial, provincial or federal duties, taxes, excise taxes, goods and services taxes, value added taxes, withholding taxes, ancillary charges and the like owing to any government body or authority in respect of the transactions anticipated by these Terms and Conditions except that Seller shall be responsible for its own income taxes. The prices quoted are exclusive of any government taxes, goods and services taxes, value added taxes, surcharges, duties or levies and the like, and any of the forgoing may be added to the sales price by Seller if Seller is required by law to collect the same unless Buyer provides to Seller an exemption certificate acceptable to the relevant government body or authority. If Seller is required to pay any duty, tax, penalty or interest on Buyer's behalf, Buyer agrees to promptly reimburse Seller for such expenses.

**3. Delivery, Transfer of Title and Risk of Loss**

Seller will deliver all products to Buyer FOB carrier at Seller's plant. Title and risk of loss to the products will pass to Buyer upon delivery to carrier. Unless otherwise agreed in writing, Buyer will arrange for the services of a carrier and will be responsible for all shipping charges, premiums for freight insurance and other transportation costs. Prices include packaging in accordance with standard commercial practice. Claims against a carrier for damage caused during shipment must be made by Buyer. The scheduled shipment date will be as set forth in Seller's Sales Order Acknowledgement.

**4. Changes**

- (a) After Seller has issued a Sales Order Acknowledgement, Buyer may by written notice to Seller make changes within the general scope of the order in any one or more of the following: (a) drawings, designs, or specifications where the products to be supplied are specifically manufactured for Buyer; (b) method of shipping or packing; (c) delivery schedule and ship to address; and (d) quantity. The change request will be evaluated by Seller to determine its impact. During this evaluation period, unless specifically placed on hold by Buyer, the order will continue to be processed in accordance with its original terms and these Terms and Conditions. If any such change causes an increase or decrease in the cost or time required for the performance or otherwise affects any other provision of the order, Seller will notify Buyer within fifteen (15) business days in writing. If Buyer does not notify Seller in writing that it accepts Seller's proposed change to costs or timing within fifteen (15) business days of Seller's notice, Buyer's initial change request will be considered canceled. After an equitable adjustment is made in the price or shipment schedule, or both, and the order is modified in writing accordingly, Seller will proceed to fill the order as changed.
- (b) Seller reserves the right to make changes, without notice, to the products, or components thereof, to be delivered under any contract formed pursuant to these Terms and Conditions. Seller further reserves the right to make changes to Seller's documents (drawings, test procedures, etc.) which describe these parts without notice. Buyer shall not have rights of concurrence or approval unless Seller specifically agrees in writing.

**5. Payment**

- (a) Seller shall submit invoices on the date of shipment. Partial invoices may be submitted for partial shipments. Terms are Net 30 days from date of invoice. Late payments are subject to a 1.5% per month late charge. All payments shall be made in U.S. dollars.
- (b) Buyer warrants that it is solvent and able to pay for the goods being purchased from Seller in accordance with the payment terms. If at any time Seller, in its sole and commercially reasonable judgment, has reason to question Buyer's ability to pay for products ordered, Seller may, in addition to any other remedies provided in these Terms and Conditions or available under law, require full or partial payment prior to completion of the order or on delivery of the products, or may terminate the order, in which case Buyer shall be liable to Seller for the full contract price, together with any charges or expenses incidental to such termination, less (i) the fair value which Seller could readily obtain for the work and material appropriated to the order and (ii) any costs from which Seller shall be relieved by reason of such termination. If Buyer becomes subject to a voluntary or involuntary petition in bankruptcy under the United States Bankruptcy Code or any comparable law, or if a receiver, trustee or comparable official is appointed for Buyer, such event shall be deemed a material breach of these Terms and Conditions.

**6. Inspection, Material Review Board**

- (a) All products supplied by Seller shall be subject to inspection and test by Buyer for a period of thirty (30) days after shipment, and in the event any such products do not conform to the warranty in Section 7(a), Buyer may, within the thirty (30) day inspection period, return the products to Seller for repair or replacement (at Seller's option) at no cost to Buyer. There will be no credit issued, nor will previous payment terms be affected.
- (b) Seller reserves and retains all material review board authority. Buyer shall not have rights of concurrence or approval unless Seller specifically agrees in writing.

**7. Warranty**

- (a) Seller warrants that all products delivered under the order at the time of shipment, and for a period of twelve (12) months from delivery to Buyer's customer or twenty-four (24) months from delivery to Buyer, whichever occurs first, will be free from defects in materials and workmanship, and will conform to the applicable specifications and drawings, and, to the extent such products are not manufactured pursuant to detailed drawings furnished by Buyer, will be free from defects in design. In order to make a claim under this warranty, Buyer must provide written notice of breach to Seller within thirty (30) days of Buyer's discovery of the breach.
- (b) Seller's sole liability and Buyer's sole remedy for any breach of warranty is expressly limited to repair or replacement of nonconforming products (at Seller's option) at no cost to Buyer. There will be no credit issued, nor will previous payment terms be affected.
- (c) The warranty set forth in Section 7(a) shall not apply unless Buyer returns the product in accordance with the procedure set forth in Section 7(d) and, after examination, such products are determined to Seller's satisfaction to be defective or otherwise nonconforming. The warranty does not cover failures or damage caused by normal wear and tear, misuse, alteration, or negligence by Buyer or by any third party; nor does the warranty cover failures, damage or liability or both resulting from installation, use or servicing of the products other than in conformity with Seller's applicable service manuals, bulletins, and instructions.
- (d) Prior to returning any product for repair or replacement, Buyer must obtain written approval from Seller. Seller will not be liable for nor accept any non-conforming products unless it has approved their return in writing. A description of the malfunction or defect should be enclosed with the product being returned. When products have been returned after the expiration of the warranty period, repair or replacement cost will be estimated prior to work commencing, resulting in a new purchase order. Units returned to Seller deemed damaged or misapplied by the Buyer shall be subject to a minimum evaluation charge of \$150.00, in addition to any applicable repair charges, and if formal failure analysis is required by the Buyer, a minimum charge of \$550.00 per unit shall be imposed.
- (e) Seller warranty does not cover testing and processing of returned product where Leach is unable to verify the customer reported failure (No Fault Found) and Buyer may be subject to a charge of \$250 per unit.
- (f) THE WARRANTY SET FORTH IN SECTION 7 IS EXCLUSIVE AND IN SUBSTITUTION FOR ALL OTHER WARRANTIES NOT EXPRESSLY SET FORTH HEREIN, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**8. Patents**

Seller agrees to indemnify Buyer for any monetary damages and costs finally awarded against Buyer in any non-appealable judgment finding that any products manufactured and furnished to Buyer by Seller, in the form delivered to Buyer by Seller, when properly used in the United States in accordance with Seller's service manuals, bulletins and instructions, infringe upon any United States patent; provided that Seller is given prompt written notice of any and all claims or threatened claims of infringement and

full control of the defense and settlement of such claims (with the assistance and cooperation of Buyer as requested). Seller shall not be liable to indemnify Buyer for any damages and costs arising out of patent infringement if the infringement arises out of compliance with Buyer's specifications, or from a combination with, and addition to, or a modification of the products after delivery by Seller or from use of goods, or any part thereof, in the practice of a process. The foregoing states Seller's sole liability, and Buyer's sole remedy, for infringements of the rights of others by said products.

## **9. Limitation of Liability**

- (a) IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY REASON WHATSOEVER. THIS EXCLUSION APPLIES TO ALL LEGAL THEORIES UNDER WHICH DAMAGES MAY BE SOUGHT.
- (b) THE CUMULATIVE LIABILITY, IF ANY, OF SELLER FOR DIRECT DAMAGES ARISING UNDER ANY PROVISION OF THESE TERMS AND CONDITIONS OR ANY CONTRACT FORMED PURSUANT HERETO AND UNDER ANY THEORY OF LIABILITY WITH RESPECT TO THE PRODUCTS IS LIMITED TO AN AMOUNT NOT TO EXCEED THE PRICE PAID BY BUYER FOR THE PARTICULAR PRODUCTS GIVING RISE TO THE LIABILITY. THE RIGHT TO RECOVER DAMAGES WITHIN THE LIMITATIONS SPECIFIED IN THIS SECTION 9 IS BUYER'S EXCLUSIVE ALTERNATIVE REMEDY IN THE EVENT ANY OTHER CONTRACTUAL REMEDY FAILS IN ITS ESSENTIAL PURPOSE.

## **10. Attorneys' Fees**

Subject to Section 9, if either Buyer or Seller retains legal counsel to enforce any of these Terms and Conditions, or to recover damages from the other, arising from the other's alleged breach of any of these Terms and Conditions, or the other commences a suit against Buyer or Seller for any alleged breach of contract that is not successful, then the other party shall pay the reasonable attorneys' fees together with costs of suit at both trial and appellate levels of either Buyer or Seller, as the case may be.

## **11. Confidential and Proprietary Information**

- (a) Each of Buyer and Seller shall use the other's Confidential Information solely for the purpose of fulfilling their respective obligations under these Terms and Conditions and any contract formed pursuant thereto and shall not disclose or transfer any such Confidential Information to a third party other than as may be specifically authorized by the disclosing party in writing. Buyer and Seller shall take reasonable steps to protect the other's Confidential Information, including, without limitation, by restricting disclosure of such Confidential Information only to those persons with a "need to know" and who are subject to confidentiality undertakings. Each of Buyer and Seller shall use at least as much care in the protection of the other's Confidential Information as it uses to protect its own trade secrets. "Confidential Information" means all non-public information, documents and materials provided by one party to the other before or after the date of the order, including, without limitation, specifications, prices, sales data, research and development, information regarding costs and know-how. The term Confidential Information shall not include information that (A) is or becomes publicly available without breach of this Section 11 or (B) was known to the receiving party at the time of disclosure, as demonstrated by files in existence at the time of disclosure.
- (b) Seller retains all rights of ownership to all designs, developments and tooling provided or developed by Seller in performance of any contract formed pursuant to these Terms and Conditions, whether or not nonrecurring payments have been made by Buyer and whether or not the form of such payments was a lump sum or amortized.
- (c) Buyer shall not, nor shall it permit others to, (i) reverse engineer, disassemble or otherwise derive any intellectual property embedded in the product; (ii) modify, tamper with or create derivative works of the product or any intellectual property embedded in the product or integrate or incorporate them with or into any other item; or (iii) strip out or alter any trademark, service mark, copyright, patent, trade secret, ownership or any other proprietary or intellectual property notices on or within the product.

## **12. Compliance with Laws; Export Controls**

- (a) Generally, Buyer shall comply with all United States and foreign laws, regulations and other governmental requirements applicable to the exportation, importation, sale and use of the products, in particular, without limitation, the U.S. Foreign Corrupt Practices Act.
- (b) If the ship to address is outside the United States, Buyer represents and warrants to Seller that it is thoroughly familiar with all applicable laws and regulations and other governmental requirements concerning the importation, sale and use of the products in the jurisdiction where the products are to be exported. Seller shall be responsible for obtaining and maintaining in its own name any required United States export license or other United States governmental approval and Buyer shall be responsible for obtaining and maintaining in its own name any required import license or other governmental approval. Seller and Buyer will comply with the reasonable requests of the other for assistance in obtaining any required licenses or governmental approvals. Seller shall not be liable if any license or governmental approval is delayed, denied, revoked, restricted or not renewed, and Buyer will not be released thereby from its obligation to pay Seller for products or other charges under these Terms and Conditions.
- (c) Buyer covenants and agrees not sell, assign or otherwise transfer the products outside the United States or other jurisdiction for which Seller obtained export approval, without obtaining all necessary approvals. No component of the products or any related documentation may be distributed or otherwise exported, re-exported or made available into (or to a national or resident of) any country or jurisdiction to which the United States has embargoed goods; or anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders; or to any person, country or jurisdiction otherwise prohibited by law.
- (d) Buyer shall indemnify and hold Seller harmless against any loss, cost (including reasonable attorneys' fees) penalty, claim or demand of any kind arising out of or occasioned by any violation of this Section or charge thereof.

## **13. Modifications and Waivers**

No modifications or amendment of these Terms and Conditions shall be binding on the parties unless made in a written instrument signed by both parties. A waiver of any breach, the acceptance of any order inconsistent with these Terms and Conditions, or the making of deliveries pursuant to such order, shall not be deemed a modification of these Terms and Conditions.

## **14. Force Majeure**

Seller will not be in default with respect to these Terms and Conditions or any contract formed pursuant hereto because of any failure or delay if the failure or delay is the result of any act of God, act of any government in either its sovereign or contractual capacity, fire, flood, epidemic, quarantine restriction, strike, freight embargo, severe weather condition, civil commotion, war or war-like operation, act of terrorism, invasion, rebellion, hostilities, military or usurped power, sabotage or any other cause beyond the reasonable control of Seller.

## **15. Severability**

If any term of these Terms and Conditions or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of these Terms and Conditions, and the application of such term to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term of these Terms and Conditions shall be valid and shall be enforced to the fullest extent permitted by law.

## **16. Applicable Law; Jurisdiction and Venue**

The validity, performance, and construction of these Terms and Conditions and contracts formed pursuant thereto shall be governed by the laws of California, without giving effect to its conflict of laws provisions. Buyer and Seller irrevocably agree and consent that the federal and state courts of California shall have exclusive personal jurisdiction over the parties and proper venue with regard to any claims arising in connection with the purchase, sale or performance of any product, and any objection to the jurisdiction or venue of any such court is hereby waived. Buyer and Seller waive the application of the provisions of the 1980 UN Convention on Contracts for the International Sale of Goods, as amended.

## **17. Affirmative Action**

The parties shall comply with all Federal equal employment opportunity obligations under 41 CFR 60-1.4(a), 60-300.5 (a), 60-741.5(a) and federal labor law obligations under 29 CFR part 471, appendix A to subpart A. The parties shall abide by the requirements of 41 CFR 60-300.5(a) and 60-741.5(a). These regulations prohibit

**discrimination against qualified protected veterans and qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and qualified individuals with disabilities.**

**18. Termination**

If Buyer elects to terminate or cancel in whole or in part this purchase order, termination charges shall be determined by Seller. Computation of charges shall include, but not be limited to, labor and materials expended in Seller's performance up to the time of notice to stop work and reasonable profit based upon completed performance. Seller shall take into account in determining termination charges the transfer of products and materials in progress to other open purchase orders for the purpose of reducing liability of the Buyer. During termination proceedings, Buyer shall not have access to Seller's books or records unless specifically agreed by Seller. If termination or cancellation involves a Government contract, the proceedings shall be governed by the appropriate provisions of the DAR, FPR, NASA, PR or FAR. Seller does not agree to the substitution of Buyer for government in termination clauses of purchase orders or contracts.

