



Oryx Instruments & Materials Corporation
47341 Bayside Parkway
Fremont, California 94538
Phone: (510) 249-1144
Fax: (510) 249-1150

Oryx Instruments & Materials Corporation

SALES REPRESENTATIVE AGREEMENT

THE AGREEMENT made this July 01, 1997, by and between ORYX INSTRUMENTS & MATERIALS (ORYX), 47341 Bayside Parkway, Fremont, California, 94538, and Chung Song Systems (Representative), located at 438-1 Mogok-Dong, Pyungtaek, Kyungki-Do, Korea.

WHEREAS, ORYX is engaged in the manufacturing, sales and distribution of ESD Test Instruments, Sputtering Carbon Target Assemblies, Process Monitoring Tools and SIMS Analytical Systems (hereinafter referred to as "products"), and desires to market such products in the territory outside of the United States described herein; and

WHEREAS, Representative desires to become the Sales Representative for ORYX in the territory outside of the United States described herein for the purpose of procuring orders for the sales of ORYX products;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, the parties hereto agree as follows:

1. **Products.** The products covered by the Agreement are only those products manufactured by ORYX set forth in Exhibit A attached hereto and made a part of this Agreement.
2. **Territory.** ORYX grants the Representative the right to solicit orders for the Products covered by this Agreement in the territory as defined in Exhibit B, hereinafter referred to as the "Territory".
3. **Prices.** Price lists for ORYX Products to be sold by ORYX to customers shall be issued by ORYX. All prices are F.O.B., ORYX's place of business in Fremont, California and are exclusive of any applicable taxes, duties, custom clearance, shipping and transit insurance charges.
4. **Price Modification.** Price lists and schedules as set forth in the preceding paragraph are subject to change at any time upon thirty (30) days written notice to Representative from ORYX. ORYX will honor any outstanding quotation that the Representative has tendered up to 60 days from the date of the tendered quotation. The Representative will provide ORYX with a copy of all tendered quotations as issued.
5. **Sales Price and Sales Commission**
 - (a) The sales price and sales commission to the Representative will be in accordance to Exhibit C or may be modified by ORYX from time to time.

(b) Whenever, during the terms of this Agreement, sales of products covered hereunder are made directly by ORYX to customers in the defined territory, Sales Representative shall be entitled to a sales commission on such sale equal to that which he would have received should the order have been processed through him. In this case the Representative will be responsible for all the functions normally associated with his representativeship.

6. **Shipment / Payment.** Upon acceptance of orders by ORYX as hereinafter provided, the Products purchased shall be shipped in accordance to the order entry instructions and invoiced to the Representative, or customer if purchased directly from Oryx. Payment from Representative shall be due ORYX Net-30 from date of invoice.

7. **Purchase Conditions.** Orders for ORYX Products must contain ORYX's standard terms and conditions of sale, and are not binding for any purpose whatsoever unless accepted in writing by ORYX. Shipments are F.O.B. factory, Fremont, CA. All contract or documentary stamps, notaries' fees, registration or other fees, cost or expenses payable in the Territory with respect to this Agreement, or the performance of same, shall be for the account of the Representative. All orders for ORYX Products must be submitted in writing upon Representative, or customer purchase order form, signed by an authorized officer or the Purchasing Agent. ORYX must receive a written purchase order for all items, whether for sale or warrenty replacement.

8. **Trademarks, Trade Names and Patents.** It is understood that ORYX is not by this Agreement or otherwise granting any right or license to Representative or any other to use any trademarks or trade names of ORYX or to utilize any information, know-how, data, or patent rights it may have, or may secure in the future, in the manufacture, use, and sale of the products covered hereby, or any components or accessories thereof.

9. **Representative - Not ORYX Agent.** This Agreement shall not constitute Representative as the employee, agent or legal representative of ORYX for any purpose whatsoever, nor shall Representative hold itself out as such. Representative is granted no right or authority to assume or create any obligations or responsibility for or on behalf of ORYX or otherwise bind ORYX. Representative is an independent contractor, not an employee, and shall bear all of its own expenses for its operation and staff, except for such items, if any, as ORYX shall by prior written agreement undertake to pay.

10. **Warranty.** On any sales pursuant to this Agreement, ORYX shall be bound only by ORYX's specific warranty. ORYX shall be responsible for any parts required during the warranty period. Representative is granted no authority to adjust for ORYX any claim for alleged defects in ORYX's products.

11. **Design.** ORYX reserves the right to discontinue to market and sell any model or part, or to make changes at any time in the design of, or add any improvements to, the Products covered by this Agreement without incurring any obligation to Representative or any customer, whether or not orders had been previously accepted by ORYX.

12. **Representative Efforts.** Representative represents that it is engaged in the business of marketing and sales of products, such as those manufactured by ORYX and sold and distributed by ORYX. Representative agrees to use its best efforts in the promotion of the use of ORYX's Products, the solicitation of inquiries and orders for such Products in the Territory, to promptly refer all orders and inquiries to ORYX and to keep ORYX informed at all times as to the market, especially with respect to each firm or prospective order or inquiry; and to make reports to ORYX in such form and with such frequency as ORYX may reasonably request with respect to the foregoing.

13. **Advertising.** The expense of advertising or promotional endeavors relating to the marketing and sales of ORYX Products in the Territory is solely the responsibility of Representative. ORYX will furnish Representative such catalogs, technical information and other information (in the English language) with respect to ORYX's Products or use of the same may be made available, in such quantities, as mutually agreed. It is understood that any literature, brochures and materials of whatever kind or description furnished to Representative by ORYX shall remain the property of ORYX. Upon request, such materials shall be returned to ORYX. Advertising or promotional materials prepared by, or to be used by Representative in the performance of this Agreement, and use of ORYX trademarks, trade names or service marks in any manner, require the prior written approval of ORYX in each instance.

14. **Registration of Representative.** If required by law, Representative agrees, at its expense, to undertake registration as ORYX's Representative.

15. **Conduct of Business.** Representative shall conduct its business at all times in such a way as to keep ORYX free from any claim by any government authority in the Territory that ORYX is subject to its jurisdiction for any purpose, including, but not limited to, any liability for the payment of taxes or similar charges of any kind in the Territory, and free from all expenses, other than those provided for in this Agreement. In addition, Representative specifically warrants and agrees that it has received and understood a copy of ORYX Corporate Policy 1-001 by which ORYX is bound, and specifically understands that any violation of the provisions of that Policy by Representative shall constitute cause for the immediate termination of this Agreement. Representative shall also be liable to ORYX for any damage suffered by or incurred by ORYX resulting from the violation by Representative of the provisions of such Policy. A copy of Corporate Policy 1-001, marked Exhibit D is attached hereto and made part hereof.

16. **Hold Harmless.** Representative will save ORYX harmless from all loss, damage, cost and expenses of any nature, including attorneys' fees, arising from or in any way connected with claim resulting from the performance or non-performance of Representative, or others acting with Representative's authority.

17. **Assignment.** Representative may not assign its rights and obligations under this Agreement, or any part thereof, without the prior written consent of ORYX.

18. Term and Termination. This Agreement shall commence as of the date hereof and continue in full force and effect for a period of one year. Either party may give written notice of termination to the other party at least thirty (30) days prior to the anniversary of the Agreement.

(a) In the event that such notice is not given, this Agreement shall then continue indefinitely, subject to the right of either party to terminate at any time upon at least thirty (30) days notice of termination.

(b) Notwithstanding the foregoing, this Agreement may be terminated by either party at any time upon breach of any of the Agreements set forth herein, which remain uncorrected after thirty (30) days notice in writing is given to the breaching party by the other. This Agreement may also be terminated at any time by ORYX upon the bankruptcy, insolvency, or other financial instability of Representative; or upon any change in the General Management, ownership or control of Representative.

(c) Termination of this Agreement shall not relieve either party of its obligation to pay any monies due the other on the date of termination.

(d) Acceptance of order from Representative by ORYX after termination shall not constitute a renewal of the Agreement or a waiver of the right of ORYX to treat this Agreement as terminated.

19. ***Notice.*** Any written notice required or desired to be given hereunder shall be addressed to the respective parties as follows:

ORYX Instruments & Materials Corporation
46713 Fremont Blvd.
Fremont, California 94538
USA
Attention: Victor Tan
Director of Operations
ATI Division
Tel. 510-249-1158
Fax. 510-249-1159

Representative: Chung Song System
438-1 Mogok-Dong, Pyungtaek, Kyungki-Do
Korea.
Attention: *J.H. Bae*
Executive Director
Tel. 011-82-333-667-5171
Fax. 011-82-333-667-4200

20. **Whole Agreement: Addendum.** This Agreement superseeds and cancels all prior agreements between the parties hereto; it incorporates the provisions of the complete Agreement between the parties and may not be altered, modified, or changed in any way, except by a subsequent written amendment subscribed to by the parties hereto.

(a) The failure of ORYX at any time to require the performance of any of the provisions of this Agreement shall in no way affect its right thereafter to require full performance of the same.

21. **Laws Governing and Arbitration.** It is agreed that it is the intent of the parties hereto that this Agreement shall be construed and enforced in accordance with the laws of the State of California, United States of America. Any controversy or claim arising out of this Agreement, except as specifically limited hereinafter, or the breach thereof, shall be settled by arbitration in accordance with the rules of the American Arbitration Association, and judgment upon an award rendered by the arbitrator may be entered in any court having jurisdiction thereof. In no event shall arbitration be conducted concerning the terminability or the termination hereof by either party to this Agreement. The language of arbitration shall be English and the place for arbitration shall be Fremont, California, United States of America, or any other place mutually agreed to by the parties.

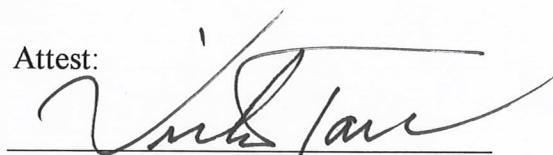
IN WITNESS WHEREOF, the parties hereto have set their hands and seals the date first above written.

ORYX Instruments & Materials Corporation

By

Attest:

Its Director of Operations
ATI Division



Representative

By J. H. Bae

Attest:

Its Executive Director

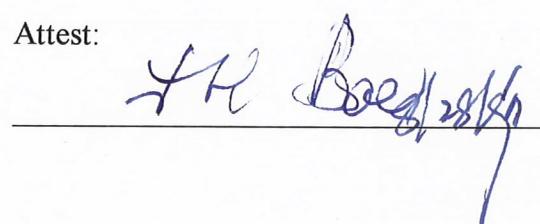




Exhibit A

Products Covered

Sputter Carbon Target Assemblies

Model: RM GUN

Chung Song System
Sales Representative Agreement
July 1997

Exhibit B

Territory

Korea

Exhibit C

Representative Pricing

- a. CURRENT PRICING: Effective May 1, 1997
- | <u>Product</u> | <u>Int'l List Price</u> |
|------------------------|--|
| RM-Gun Target Assembly | \$235.00 > 100 pc per month
\$245.00 < 100 pc per month |
- b. COMMISSION: 10% of the International List Sales Price
- c. Oryx and Chunag Song System will share on a 50/50 basis any target revenues from specific sales where the Final Sales Price is in excess of the ORYX International Sales Price.

The "Final Sales Price" is defined to be the amount paid for the product by the final customer after subtraction for items such as duty, custom clearance, taxes, shipping and transit insurance charges.

Exhibit D

CORPORATE POLICY 1-001

Subject: **Conduct of Business Activities**

1. It is the policy of Oryx Technology Corporation to conduct its business activities in the highest moral and ethical manner. Every employee is expected to adhere to this standard without exception and in all circumstances. It is never in the best interests of the Corporation, its shareholders or its employees, to act otherwise.
2. The Corporation's business will be conducted in strict compliance with the spirit and the letter of all legal requirements. When moral and ethical standards in the business community require a higher level of conduct on the part of the Corporation and its employees than that required by the letter of the law, the higher standard shall be followed.
3. All employees are authorized and required to report instances of improper business conduct of which they have personal knowledge to the employee's immediate supervisor. However, in instances where the employee's relationship with his supervisor could be placed in jeopardy because of the circumstances involved in the particular case of misconduct in question, such report of misconduct may be made directly to any responsible representative of the Corporation, such as any corporate Director or Officer, a Division Manager, or a member of the Internal Auditing, Accounting, Industrial Relations, or Legal Department.
4. In the rare event that an employee should consider it unavoidable to deviate from the policies expressed above, he shall obtain prior management approval for such deviation. Should circumstances preclude prior reference to higher management, he shall report the event to higher management at the first opportunity.
5. It is the firm intention of the management of the Corporation to enforce the requirements of this Policy. Managers and supervisors at all levels are expected to support and enforce this Policy actively and with initiative. Each employee is required to sign a statement that he has read and understands the Policy.