Contract Agreement

Between Contoso and QBIT Maker Inc.

# 1.0 DEFINITIONS

* 1.1 Acceptance: The written confirmation by QBIT Maker Inc. that the Items delivered by Contoso meet the Acceptance Criteria and the Purchase or Product Specifications.
* 1.2 Acceptance Criteria: The criteria agreed upon by the parties in writing that the Items must meet or exceed in order to be accepted by QBIT Maker Inc.
* 1.3 Acceptance Test: The test or tests conducted by QBIT Maker Inc. or its authorized representative to verify that the Items meet the Acceptance Criteria and the Purchase or Product Specifications.
* 1.4 Buyer Spend: The total amount of money that QBIT Maker Inc. agrees to pay Contoso for the Items and Services under this Agreement.
* 1.5 Confidential Information: Any information, whether in oral, written, graphic, electronic, or other form, that is disclosed by or on behalf of one party (the "Disclosing Party") to the other party (the "Receiving Party") under this Agreement, and that is either marked or identified as confidential or proprietary, or that by its nature or the circumstances of its disclosure should reasonably be regarded as confidential or proprietary. Confidential Information includes, but is not limited to, the terms and conditions of this Agreement, the Disclosing Party's business plans, strategies, products, services, technologies, processes, inventions, trade secrets, know-how, designs, drawings, specifications, data, customer lists, pricing, financial information, and any other information that derives independent economic value from not being generally known or readily ascertainable by others.
* 1.6 Consumable Item(s): Any Item that is intended to be consumed or depleted during the normal operation or use of the Item, such as batteries, filters, fuses, lubricants, etc.
* 1.7 Counterfeit(s): Any Item that is a copy, imitation, or substitute of an original Item, or that has been altered, misrepresented, or fraudulently labeled or documented as to its origin, source, manufacturer, model, serial number, date code, performance, or quality.
* 1.8 Custom Item(s): Any Item that is designed, developed, manufactured, or modified by Contoso specifically for QBIT Maker Inc. in accordance with the Purchase or Product Specifications, and that is not a Standard Item.
* 1.9 Deliver, Delivered or Delivery: The transfer of physical possession of the Items from Contoso to QBIT Maker Inc. at the Delivery Point, or the completion of the Services by Contoso, as applicable.
* 1.10 Delivery Date: The date or dates specified in the Purchase Order or the Schedule for the Delivery of the Items or the Services by Contoso to QBIT Maker Inc.
* 1.11 Delivery Point: The location or locations specified in the Purchase Order or the Schedule for the Delivery of the Items by Contoso to QBIT Maker Inc.
* 1.12 Demand Flow Technology (“DFT”) Signal Alert: A notification sent by QBIT Maker Inc. to Contoso via electronic means, such as email, fax, or EDI, indicating the quantity and Delivery Date of the Items that QBIT Maker Inc. requires from Contoso.
* 1.13 End of Life (“EOL”) Date: The date after which Contoso will no longer manufacture, sell, or support an Item, as notified by Contoso to QBIT Maker Inc. in writing.
* 1.14 Engineering Change Order (“ECO”): A document issued by Contoso or QBIT Maker Inc. that describes a proposed change to the design, specifications, materials, components, processes, or testing of an Item, and that requires the approval of both parties before implementation.
* 1.15 Epidemic Failure: A failure or defect that affects more than five percent (5%) of the total number of Items of the same model or part number that have been Delivered by Contoso to QBIT Maker Inc. within a twelve (12) month period, and that is attributable to a common cause or root problem.
* 1.16 Field: The location or locations where the Items are installed, operated, used, or maintained by QBIT Maker Inc. or its customers.
* 1.17 Forecast(s): The non-binding estimate or estimates provided by QBIT Maker Inc. to Contoso in writing of the quantity and Delivery Date of the Items that QBIT Maker Inc. anticipates to order from Contoso within a specified period of time.
* 1.18 Hazardous Materials: Any substances or materials that are classified or regulated as hazardous, toxic, infectious, radioactive, corrosive, flammable, explosive, or otherwise dangerous or harmful under any applicable laws, regulations, or standards.
* 1.19 Intellectual Property (“IP”) Rights: Any and all rights, titles, and interests in and to any patents, trademarks, trade names, service marks, logos, trade dress, copyrights, trade secrets, know-how, inventions, discoveries, improvements, innovations, designs, drawings, specifications, data, software, databases, documentation, or any other intellectual property or proprietary rights, whether registered or unregistered, and whether existing or arising in the future, and all applications, registrations, renewals, extensions, and modifications thereof.
* 1.20 Items: Any goods, products, materials, parts, components, assemblies, subassemblies, equipment, systems, software, firmware, or hardware that are manufactured, supplied, or Delivered by Contoso to QBIT Maker Inc. under this Agreement, including any Standard Items and Custom Items.
* 1.21 Inventions: Any inventions, discoveries, improvements, innovations, designs, or ideas, whether or not patentable, that are conceived, developed, or made by Contoso or QBIT Maker Inc., either alone or jointly with others, in the course of performing this Agreement.
* 1.22 Lead-time: The period of time between the date of receipt of a Purchase Order by Contoso and the Delivery Date of the Items or the Services by Contoso.
* 1.23 Margin: The percentage of profit that Contoso earns from the sale of the Items or the Services to QBIT Maker Inc., calculated as follows: Margin = (Selling Price - Cost of Goods Sold) / Selling Price x 100%.
* 1.24 Mark-Up: The percentage of increase that Contoso applies to the Cost of Goods Sold to determine the Selling Price of the Items or the Services, calculated as follows: Mark-Up = (Selling Price - Cost of Goods Sold) / Cost of Goods Sold x 100%.
* 1.25 Milestone: A specific event, task, or deliverable that is defined and agreed upon by the parties in writing as part of the Project, and that must be completed by a certain date or within a certain period of time.
* 1.26 Milestone Commitment Date: The date or dates specified in the Purchase Order or the Schedule for the completion of a Milestone by Contoso or QBIT Maker Inc.
* 1.27 P1 Request: A request made by QBIT Maker Inc. to Contoso in writing for an expedited Delivery of the Items or the Services, which requires Contoso to use its best efforts to meet the requested Delivery Date, subject to availability of resources and materials, and payment of additional charges by QBIT Maker Inc.
* 1.28 P2 Request: A request made by QBIT Maker Inc. to Contoso in writing for a priority Delivery of the Items or the Services, which requires Contoso to use its reasonable efforts to meet the requested Delivery Date, subject to availability of resources and materials, and payment of additional charges by QBIT Maker Inc.
* 1.29 Project: A specific undertaking or endeavor that involves the design, development, manufacture, or Delivery of Custom Items or Services by Contoso to QBIT Maker Inc., and that is governed by a Statement of Work.
* 1.30 Purchase Order: A document issued by QBIT Maker Inc. to Contoso that specifies the quantity, price, Delivery Date, Delivery Point, and other terms and conditions of the purchase of the Items or the Services by QBIT Maker Inc. from Contoso.
* 1.31 Purchase or Product Specifications: The technical specifications, requirements, standards, drawings, or other documents that describe the features, functions, performance, quality, or characteristics of the Items or the Services, and that are agreed upon by the parties in writing.
* 1.32 Release: The written authorization by QBIT Maker Inc. to Contoso to proceed with the manufacture or Delivery of the Items or the Services, or any part thereof, in accordance with the Purchase Order or the Schedule.
* 1.33 Schedule(s): The document or documents that set forth the quantity, Delivery Date, Delivery Point, and other terms and conditions of the Delivery of the Items or the Services by Contoso to QBIT Maker Inc. under this Agreement, and that are agreed upon by the parties in writing.
* 1.34 Service(s): Any work, labor, service, support, maintenance, repair, installation, training, consultation, or other activity that is performed or provided by Contoso to QBIT Maker Inc. under this Agreement.
* 1.35 Standard Item: Any Item that is manufactured, sold, or offered by Contoso to its customers in the ordinary course of its business, and that is not a Custom Item.
* 1.36 Statement of Work: A document that defines and describes the scope, objectives, deliverables, milestones, timeline, budget, and other terms and conditions of a Project, and that is agreed upon by the parties in writing.
* 1.37 Source Inspection: The inspection or testing of the Items by QBIT Maker Inc. or its authorized representative at Contoso's facility prior to the Delivery of the Items by Contoso.
* 1.38 Technology Roadmap: A document that outlines the current and future technologies, products, services, or capabilities that Contoso plans to develop, offer, or implement, and that is shared by Contoso with QBIT Maker Inc. for informational purposes only.

# 2.0 ORDERING AND DELIVERY

* 2.1 Purchase Orders. QBIT Maker Inc. may order the Items or the Services from Contoso by issuing a Purchase Order to Contoso. Each Purchase Order shall include, at a minimum, the following information: (a) the description, quantity, and price of the Items or the Services; (b) the Delivery Date and Delivery Point of the Items or the Services; (c) the Purchase or Product Specifications of the Items or the Services; (d) the payment terms and method; and (e) any other terms and conditions that are applicable to the purchase of the Items or the Services. Each Purchase Order shall be subject to the terms and conditions of this Agreement, and any additional or conflicting terms and conditions in the Purchase Order shall be null and void, unless expressly agreed upon by the parties in writing. Contoso shall acknowledge the receipt of each Purchase Order within two (2) business days of its receipt, and shall indicate its acceptance or rejection of the Purchase Order, or request any clarifications or modifications to the Purchase Order. A Purchase Order shall be deemed accepted by Contoso upon the earlier of: (i) the written confirmation of acceptance by Contoso; or (ii) the commencement of performance by Contoso in accordance with the Purchase Order.
* 2.2 Schedules. The parties may agree to establish one or more Schedules for the Delivery of the Items or the Services by Contoso to QBIT Maker Inc. under this Agreement. Each Schedule shall include, at a minimum, the following information: (a) the description, quantity, and price of the Items or the Services; (b) the Delivery Date and Delivery Point of the Items or the Services; (c) the Purchase or Product Specifications of the Items or the Services; (d) the payment terms and method; and (e) any other terms and conditions that are applicable to the Delivery of the Items or the Services. Each Schedule shall be subject to the terms and conditions of this Agreement, and any additional or conflicting terms and conditions in the Schedule shall be null and void, unless expressly agreed upon by the parties in writing. Contoso shall acknowledge the receipt of each Schedule within two (2) business days of its receipt, and shall indicate its acceptance or rejection of the Schedule, or request any clarifications or modifications to the Schedule. A Schedule shall be deemed accepted by Contoso upon the earlier of: (i) the written confirmation of acceptance by Contoso; or (ii) the commencement of performance by Contoso in accordance with the Schedule.
* 2.3 Changes and Cancellations. QBIT Maker Inc. may request to change or cancel a Purchase Order or a Schedule, or any part thereof, by providing a written notice to Contoso at least thirty (30) days prior to the Delivery Date of the affected Items or Services. Contoso shall review the request and notify QBIT Maker Inc. of its acceptance or rejection of the request, or propose any alternative solutions, within five (5) business days of its receipt of the request. Contoso may accept or reject the request at its sole discretion, and may impose any reasonable conditions or charges for the change or cancellation of the Purchase Order or the Schedule, or any part thereof, as it deems appropriate. QBIT Maker Inc. shall reimburse Contoso for any costs or expenses that Contoso has incurred or committed in connection with the change or cancellation of the Purchase Order or the Schedule, or any part thereof, including, but not limited to, the costs of materials, labor, overhead, storage, transportation, and disposal. QBIT Maker Inc. shall also pay Contoso a cancellation fee equal to twenty percent (20%) of the price of the cancelled Items or Services, unless otherwise agreed upon by the parties in writing.
* 2.4 Delivery Terms. Contoso shall Deliver the Items or the Services to QBIT Maker Inc. in accordance with the terms and conditions of the applicable Purchase Order or Schedule. Unless otherwise specified in the Purchase Order or the Schedule, the Delivery of the Items shall be made FCA (Free Carrier) Contoso's facility, as defined in the Incoterms 2020, and the Delivery of the Services shall be made at QBIT Maker Inc.'s facility or such other location as agreed upon by the parties in writing. Contoso shall use commercially reasonable efforts to meet the Delivery Date of the Items or the Services, but shall not be liable for any delays or failures in Delivery due to causes beyond its reasonable control, such as force majeure events, labor disputes, material shortages, transportation delays, or acts or omissions of QBIT Maker Inc. or its agents or representatives. Contoso shall notify QBIT Maker Inc. in writing as soon as practicable of any anticipated or actual delays in Delivery, and shall provide QBIT Maker Inc. with an updated Delivery Date and a recovery plan. QBIT Maker Inc. shall not be entitled to cancel or terminate a Purchase Order or a Schedule, or any part thereof, or to claim any damages or penalties, due to a delay in Delivery by Contoso, unless the delay exceeds thirty (30) days from the original Delivery Date, and QBIT Maker Inc. has given Contoso a written notice of default and a cure period of at least fifteen (15) days.
* 2.5 Shipment and Packaging. Contoso shall ship the Items to the Delivery Point using the carrier, method, and route of its choice, unless otherwise specified in the Purchase Order or the Schedule, or instructed by QBIT Maker Inc. in writing. Contoso shall provide QBIT Maker Inc. with the tracking information and the estimated date of arrival of the shipment. Contoso shall pack, mark, and label the Items in accordance with the Purchase or Product Specifications, or, in the absence of such specifications, in accordance with the industry standards and practices. Contoso shall ensure that the Items are adequately protected from damage, loss, or deterioration during the shipment and storage. Contoso shall include with each shipment a packing list that contains, at a minimum, the following information: (a) the Purchase Order or Schedule number; (b) the description, quantity, and serial number of the Items; (c) the Delivery Date and Delivery Point of the Items; and (d) any other information that is required by the Purchase Order or the Schedule, or by the applicable laws, regulations, or standards.
* 2.6 Inspection and Acceptance. QBIT Maker Inc. shall inspect the Items upon their Delivery at the Delivery Point, and shall notify Contoso in writing of any visible damage, defect, shortage, or non-conformance of the Items within five (5) business days of the Delivery. If QBIT Maker Inc. fails to provide such notice within the specified time period, the Items shall be deemed accepted by QBIT Maker Inc. as to their visible condition. QBIT Maker Inc. shall conduct the Acceptance Test of the Items within thirty (30) days of the Delivery, or such other period as agreed upon by the parties in writing, and shall notify Contoso in writing of the results of the Acceptance Test. If the Items meet or exceed the Acceptance Criteria and the Purchase or Product Specifications, QBIT Maker Inc. shall issue an Acceptance to Contoso in writing. If the Items fail to meet or exceed the Acceptance Criteria or the Purchase or Product Specifications, QBIT Maker Inc. shall provide Contoso with a detailed description of the failure or non-conformance, and Contoso shall, at its option and expense, either: (i) repair or replace the defective or non-conforming Items; or (ii) refund or credit the price of the defective or non-conforming Items to QBIT Maker Inc. If QBIT Maker Inc. fails to conduct the Acceptance Test or to provide the results of the Acceptance Test to Contoso within the specified time period, the Items shall be deemed accepted by QBIT Maker Inc. as to their performance and quality. The Services shall be deemed accepted by QBIT Maker Inc. upon their completion by Contoso, unless otherwise specified in the Purchase Order or the Schedule, or agreed upon by the parties in writing.
* 2.7 Transfer of Title and Risk of Loss. The title and risk of loss of the Items shall pass from Contoso to QBIT Maker Inc. upon the Delivery of the Items at the Delivery Point, unless otherwise specified in the Purchase Order or the Schedule, or agreed upon by the parties in writing.
* 2.8 Source Inspection. QBIT Maker Inc. reserves the right to inspect or test the Items at Contoso's premises prior to Delivery, upon reasonable notice and during normal business hours. Such inspection or testing shall not relieve Contoso of its obligations under this Agreement, nor constitute acceptance of the Items by QBIT Maker Inc. If any inspection or testing reveals that the Items do not conform to the Purchase Order or the Schedule, or the Purchase or Product Specifications, QBIT Maker Inc. may reject the Items or require Contoso to correct the non-conformance at Contoso's sole cost and expense. Contoso shall provide QBIT Maker Inc. with all necessary assistance, facilities, and access for such inspection or testing.