

## FORMFACTOR TERMS AND CONDITIONS OF PURCHASE

These **Terms And Conditions of Purchase** ("Agreement") constitute the entire and sole basis upon which FormFactor, Inc. or its affiliate identified on an Order ("Buyer") agrees to purchase from the selling party ("Seller") the products, components and services (collectively, "Product(s)") identified on the accompanying purchase order ("Order") and are the exclusive understanding between Buyer and Seller covering the Products. Seller shall be deemed to have expressly accepted the terms of this Agreement upon any of the following: Seller's written agreement hereto or acknowledgement hereof; Seller's delivery of any Products identified in the Order; Seller informing Buyer in any manner of the commencement of performance; or Seller providing notice to Buyer of a delivery schedule. Any additional or different terms and/or conditions proposed by Seller will not be applicable. Neither Buyer's acceptance of Products nor Buyer's failure to object to terms and conditions contained in any communication from Seller shall constitute acceptance of additional or different terms and/or conditions proposed by Seller. This Agreement governs in the event that its terms conflict with any Order. These Terms and Conditions, and the Order, including any exhibits or attachments, comprise the sole, complete and final agreement between Buyer and Seller concerning its subject matter, and expressly supersede all prior negotiations, proposals, offers, representations, commitments, understandings, or agreements between the parties, either written or oral.

### **1. Price and Scheduling.**

1.1. Seller shall furnish the Products called for in the Order in accordance with the prices and delivery dates stated on the Order. If prices and/or delivery dates are not stated, Seller shall offer its lowest prices and best delivery dates, both of which shall be subject to written acceptance by Buyer. The prices for individual line items listed on the Order include all applicable taxes that the Seller is legally required to collect, except sales tax or goods and services tax, which shall be shown separately where applicable. The prices stated on the Order are fixed, include all packaging and handling costs, and is Seller's full compensation for the Products sold under the Order. In the event the Order requires one or more separate deliverables, each such deliverables shall be treated as a Product for the purpose of this Agreement.

1.2. Any forecasts provided by Buyer are for planning purposes only and do not constitute the Order or other commitment by Buyer. Buyer shall have no obligation to issue Orders or purchase Products and shall only be responsible for Products for which it has issued Orders.

### **2. Packing; Shipping; Delivery.**

2.1. All Products shall be prepared for shipment in a manner which: (1) follows good commercial practice, (2) is acceptable by common carriers for shipment at the lowest rate, (3) is environmentally friendly and reduces waste as much as feasible, and (4) is adequate to ensure safe arrival. If Buyer requests, Seller will package Products for cleanroom delivery, per Buyer's specification. Seller shall mark all containers with necessary lifting, handling, unpacking and shipping information, Release number, Product Identification or part number (if applicable), description, date of shipment and the names of Buyer and Seller. Any wood products used in international shipments shall be treated and marked in compliance with the International Plant Protection Convention (IPPC).

2.2. Unless otherwise printed on the Order, all Products shall be delivered "DDP," ICC Incoterms 2020 Buyer's Livermore facility, unless a different Buyer facility is specified in the Order. If Seller does not have U.S. import privileges, then the Products shall be delivered "DAP" (Livermore, or other Buyer facility specified in the Order) Incoterms 2020. Title and risk of loss for all Products shall pass to Buyer upon delivery of Products to Buyer's facility.

2.3. Seller agrees that all Products will be delivered ready for shipment to the shipping point on the date specified in the Order ("Delivery Date"). Seller shall notify Buyer within twenty-four (24) hours if Seller becomes aware that it will be unable to meet the Delivery Date and must state the reasons. Such notification by Seller shall not affect or prejudice Buyer's termination rights hereunder.

2.4. Late deliveries of any Product, except any agreed upon spare parts, will result in a price reduction on such late Product of one percent (1%) for each calendar day late up to a maximum additional discount of twenty percent (20%) to the price for the relevant item listed on the Order. In addition, Seller shall deliver, at its sole cost and expense, any late shipment of Products by expedited freight to Buyer's site as instructed by Buyer. Partial deliveries are counted as late shipments and will only be considered complete when all Products have been shipped. Buyer shall have the option to terminate the Order, in whole or in part, with no cancellation charge for any Product delivered more than ten (10) business days after the Delivery Date specified in the Order. Seller will be responsible for any costs incurred by Buyer in obtaining cover in the event of such termination.

2.5. All early deliveries of Products must be approved in writing by Buyer prior to shipment by Seller. If any Product is received at Buyer's dock prior to the Delivery Date, and approval for the delivery has not been granted by Buyer, Buyer shall have the right to: (1) return the Product to Seller, with Seller paying all shipping and handling costs, and request Seller to reship the Product on the Delivery Date; (2) accept the early delivery and reduce the purchase price of the Order by a mutually agreed upon amount for each calendar day that the Product is delivered early.

2.6. Supplier shall include with each delivery a commercial invoice and packing slip, each of which shall be plainly marked with the following information at a minimum: Buyer's Order number, Seller's part number, quantity, value, and date shipped. At Buyer's request, Supplier shall promptly provide a Certificate of Conformance.

2.7 For international shipments, Seller shall (a) include on the packing list and commercial invoice the Harmonized Tariff Schedule (HTS) classification, Country of Origin, and Export Control Clearance Number (ECCN) or EU Commerce Control List (CCL) classification for each item, and (b) email a shipment notification at the time of each dispatch to Buyer which shall include the following: carrier name, carrier tracking number, commercial invoice, packing list, and additional documentation as applicable or as required.

2.8 Unless Buyer has specified otherwise in writing, Seller shall ensure that all Products are correctly marked with the country of origin (country of manufacture). The marking shall be legible, permanent, conspicuous and in English. If an item is unable to be marked due to its physical characteristics or because marking would damage the article prior to shipment, the immediate container shall be marked or labeled with the country of origin.

2.9 If applicable, Seller shall provide: (a) Material Safety Data Sheets (MSDS), (b) certification that chemical substances that are subject to the U.S. Toxic Substances Control Act (TCA) are provided in compliance with the TCA, and (c) FCC ID or FCC technical compliance information for Products subject to the U.S. Federal Communications Commission (FCC). Additional regulatory documentation shall be provided as applicable.

### **3. Acceptance Criteria and Inspection.**

3.1. Products shall conform to Buyer's acceptance criteria/requirements attached to the Order or otherwise delivered by Buyer.

3.2. Buyer shall have the right to inspect the Products at Seller's facility prior to shipment upon at least forty-eight (48) hours' notice to Seller. Seller agrees to provide all reasonable assistance with the inspection at no charge to Buyer. All Products, once delivered to Buyer, may be inspected and tested by Buyer or its designee, even if a pre-shipment inspection was performed. Seller agrees to assist Buyer in this post-delivery inspection and during the start-up period for the Products covered by the Order without additional charge.

3.3. All inspection records relating to Products covered by the Order shall be made available to Buyer.

3.4. If any Products are defective or otherwise not in conformity with Buyer's acceptance requirements, Buyer may, by written notice to Seller: (1) rescind the Order as to such defective Products without liability or cost; (2) accept such defective Products at an equitable reduction in price agreed to by the parties; (3) repair the non-conforming Products itself and recover from Seller its reasonable repair expenses and any late delivery penalties imposed on Buyer by its customers; or (4) reject such defective Products and require the delivery of replacements at Seller's expense. Deliveries of replacements shall be accompanied by a written notice specifying that such Products are replacements. If Seller fails to deliver required replacements promptly, Buyer may terminate the Order for default.

3.5. No inspection (including source inspection), tests, approval (including design approval), or acceptance of Products shall relieve Seller from responsibility for defects or other failures to meet the requirements of the Order. Rights granted to Buyer in this Article 3 are in addition to and do not prejudice any other rights or remedies provided elsewhere in the Order or in law.

### **4. Invoicing and Payment.**

4.1. For each payment due on the Order, Seller shall send an invoice in duplicate, accompanied by a bill of lading or express receipt (as applicable). Payment of invoices shall not constitute acceptance of the Products and shall be subject to appropriate adjustment for failure of Seller to meet the Order requirements. Buyer may set off any amount owed by Seller or any of its affiliated companies to Buyer against any amount owed by Buyer under the Order.

4.2. Invoices shall include: the Order number, part number(s) (if applicable), complete bill to address, description of Products, quantities, unit prices and extended totals in U.S. dollars; all of which must match the information on Buyer's Order. Any applicable taxes or other charges such as duties, customs, tariffs, imposts and government-imposed surcharges shall be stated separately on Seller's invoice. Seller shall be fully responsible for, indemnify and hold Buyer harmless from, any and all payments to Seller's vendors or subcontractors.

4.3. Payment of invoices for Products shall be made within sixty (60) days from Buyer's receipt of the correct original invoice, except as may be otherwise stated in the Order, and shall be according to the schedule. Buyer may at its option make payment within ten (10) days of receipt of the correct original invoice and receive a five percent (5%) discount from the total invoice.

### **5. Cancellation and Termination.**

5.1. Buyer may cancel Orders, and cancellation charges will not exceed: (1) 0% if cancellation is >60 days prior to the scheduled Delivery Date in the Order; (2) 20% if cancellation is 30- 59 days prior to the scheduled Delivery Date in the Order; and (3) 30% if cancellation is <30 days prior to the scheduled Delivery Date in the Order.

5.2. After receipt of Buyer's cancellation notice, in no event shall Seller be compensated in any way for any work performed thereafter; any costs incurred by Seller's vendors or subcontractors; any costs Seller could reasonably have avoided; nor any indirect overhead and administrative charges.

5.3. Buyer may without liability (and without prejudice to any other right or remedy provided by the Order or by law) terminate all or any part of the Order by written notice to Seller in the event that: (1) Seller fails to make any delivery or perform any service

in accordance with Delivery Dates, or otherwise fails to comply with the Order and does not remedy such failure within ten (10) days after receipt of written notice thereof from Buyer; (2) Seller fails to make progress to such an extent that performance of the Order is endangered; (3) any proceeding is filed by or against Seller in bankruptcy or insolvency, or for appointment for the benefit of creditors; or (4) Seller is in breach of any other part of the Order.

#### **6. Changes; Subcontracting; Cessation.**

6.1. Buyer may, without penalty, at any time, by written change order, suspend Seller's performance under the Order in whole or in part, make changes in drawings, designs, requirements, method of shipment or packing, alter the time or place of delivery, or require additional or diminished work. In the event that such change results in an increase or decrease in the Product price as evidenced by Seller, Buyer and Seller shall mutually agree on a modified price that is fair and equitable as between them. No change order will be binding unless issued by an authorized representative of Buyer.

6.2. Buyer's engineering and technical personnel may from time to time, in Buyer's discretion, render assistance to Seller concerning the Products to be furnished pursuant to the Order. Such Buyer personnel are not authorized to change Products ordered or the provisions of the Order.

6.3. Seller shall not subcontract the work under an Order without Buyer's prior written approval.

6.4. Seller shall give Buyer at least 120 days prior written notice of the permanent discontinuance of production of Products covered by the Order during which time Seller shall accept orders from Buyer for a reasonable quantity of such items.

#### **7. Materials and Tools.**

7.1. If Buyer furnishes Seller material or equipment or pays for the design and manufacture of such material or equipment in connection with the Products (hereinafter "Buyer Materials"): (1) title to the Buyer Materials (including any and all intellectual property rights) shall remain or vest in Buyer (and Seller hereby assigns the same to Buyer, including but not limited to the assignment of any rights in patents, trade secrets and copyrights); (2) the Buyer Materials shall be used by Seller exclusively for Buyer's Orders; (3) the Buyer Materials shall (x) be clearly marked as Buyer's property and segregated when not in use, (y) be kept in good working condition at Seller's expense, and (z) be returned to Buyer promptly upon Buyer's request.

7.2. Any Buyer Materials furnished by Buyer to Seller marked or otherwise noted by Buyer as being confidential information shall be treated by Seller in accordance with the confidentiality obligations hereunder.

7.3. For all Products that are designed or manufactured, in whole or in part, to requirements provided by Buyer, Buyer shall own all right, title and interest in and to all intellectual property in the Products.

7.4. If the Products include software, Seller grants to Buyer a non-exclusive, royalty-free, transferable worldwide license to use, reproduce and distribute the software for internal use directly or as integrated into Buyer products. Seller also grants to Buyer a non-exclusive, royalty-free, worldwide license to use, distribute and offer for sale any copies of the software purchased that remain in the original shrink-wrapped packaging. If Products include documentation, Seller grants to Buyer and its distributors and resellers a non-exclusive, royalty-free, worldwide license to use, reproduce, distribute and prepare derivative works of all documentation provided by Seller. These rights with respect to software and documentation shall extend to third party channels of distribution.

7.5. Nothing in this Agreement is intended to, or does, either expressly, by implication or otherwise, grant or convey any license, title or right from Buyer to Seller in or under any patent, copyright, trade secret, trademark or other intellectual property right (collectively "IP Rights") with respect to which Buyer can grant licenses, except and solely to the extent such a license is necessary for Seller to manufacture and sell the Products solely for and to Buyer. Buyer expressly reserves all of its rights with respect to IP Rights. Further, it is agreed that in no event may Seller resell or otherwise transfer (for payment or otherwise) any Products that are made using or with reference to Buyer's confidential information or other intellectual property, even after termination of this Agreement, to a third party without Buyer's prior written consent.

7.6. Seller shall be liable for any loss of or damage to Buyer's property while such property is in Seller's possession or control, ordinary wear and tear excepted.

#### **8. Proprietary Information, Confidentiality and Publicity.**

8.1. All written information obtained by Seller from Buyer in connection with the Order shall remain the property of Buyer and shall be used and disclosed by Seller only to the extent necessary for fulfilling the Order. The terms and conditions of the Non-Disclosure Agreement, or other confidentiality agreement, if applicable, as between Buyer and Seller are incorporated by reference as if fully set forth herein. In the event of any inconsistency between this Agreement and those of the executed confidentiality agreement, this Agreement shall prevail.

8.2. Without the prior written consent of Buyer, Seller shall not make or authorize any news release, advertisement, or other disclosure regarding the Order or otherwise use Buyer's name.

#### **9. Data Privacy.**

9.1. Seller shall comply with all applicable national, federal, state, and provincial laws relating to data privacy, the protection of personal information or data, and the cross-border transfer of personal information or data (collectively, "Data Privacy Laws"). Seller represents and warrants it has obtained the consent of its employees to release any personal information or data that Supplier provides to Buyer, and to allow Buyer to use, disclose and transmit such information in connection with this Agreement.

9.2 If the Agreement involves collection or processing of Buyer Personal Information from individuals in California, then the Parties agree that Seller is a "Service Provider," as such term is defined in the California Consumer Privacy Act, Cal. Civ. Code §§ 1798.100 et. seq. and implementing regulations (the "CCPA"), and Seller shall collect, access, maintain, use, process and transfer Buyer Personal Information solely for the purpose of performing Seller's obligations under this Agreement and will neither sell, nor exchange for anything of value, Buyer Personal Information. "Buyer Personal Information" means any information or data provided (directly or indirectly) or made accessible to Seller or its agents, representatives, or subcontractors in connection with the Agreement or any Order that relates to, or is reasonably capable of being associated with, or could reasonably be linked to, any identified or identifiable natural person, or, to the extent of a conflict with applicable law, that is subject to any Data Privacy Laws.

9.3 Seller represents and warrants that Seller employs and will continue to employ physical, technical and administrative safeguards to protect Buyer Personal Information from unauthorized access, acquisition or use. These measures will include reasonable restrictions upon physical access to any locations containing Buyer Personal Information, such as the storage of such records in locked facilities, storage areas, or containers.

9.4 Seller agrees to take all action reasonably requested to support Buyer's compliance with Data Privacy Laws.

#### **10. Compliance.**

10.1 Seller shall perform its obligations hereunder in compliance with all applicable laws, regulations and governmental requirements, including without limitation national and international laws governing export and import control and ethical business practices, and agrees to conform to the Responsible Business Alliance Code of Conduct at <http://www.responsiblebusiness.org> ("RBA Code") and other reasonable Buyer policies. Accordingly, Seller represents and warrants that it complies with the laws prohibiting slavery and human trafficking in all countries in which it is doing business, and certifies that materials incorporated into Products are procured in compliance with such laws. Seller further agrees that Buyer may conduct an independent audit of Seller, upon reasonable advance notice, to evaluate Seller's compliance with the foregoing requirements.

10.2 Seller agrees to provide Buyer information that it may reasonably request to support compliance with applicable laws and government contracting requirements; and to take reasonable measures to detect and avoid counterfeit products, including tracing parts back to the manufacturer.

#### **11. Representations and Warranties.**

11.1. Seller represents and warrants that it has good, valid and marketable title to the Products, free and clear of all mortgages, pledges, charges, assignments, liens, security interests, claims and encumbrances of any kind, nature or description.

11.2. Seller represents and warrants that there is no action, suit, claim, proceeding or investigation pending or threatened against Seller or, to the best of Seller's knowledge, against any current or previous owner of the Products, by or before any third party or any government agency, in connection with the Products.

11.3. Seller represents and warrants that, to the best of its knowledge, Seller's sale and Buyer's purchase of the Products does not infringe on the intellectual property rights of any third party and Buyer will have complete right and license to use the Products as intended, including by resale or incorporation into a product to be licensed or sold, without the need to pay any additional monies or otherwise obtain any licenses or permissions.

11.4. In addition to any other express or implied warranties, Seller warrants that Products furnished pursuant to the Order will: (1) be free from defects in workmanship and material; (2) conform and perform to the Specifications; (3) be free from defects in design except to the extent that such designs were provided by Buyer; (4) be suitable for the purposes, if any, which are stated on the Order or in its related documents; (5) be in conformity with all other requirements of the Order; (6) be new and not contain any used or reconditioned parts or materials unless specified or approved by Buyer in writing and (7) be designed, manufactured and delivered in compliance with all Federal, state and local laws, rules and regulations for violation of which Buyer may be liable. "Specifications" include Buyer's purchasing specifications, and Seller's descriptions and samples of the Products as provided to Buyer in connection with the sale thereof.

11.5. These express warranties will survive delivery, inspection, acceptance, and payment by Buyer.

11.6 For breach of the warranties above, in addition and without prejudice to any other rights Buyer may have, if items delivered pursuant to the Order are found not to be as warranted, Buyer may return such items to Seller, at Seller's expense, for correction, replacement or credit, as Buyer may direct. Any items corrected or furnished in replacement shall also be subject to all the provisions of this Agreement to the same extent as items initially furnished.

#### **12. Hazardous Materials.**

If any Product includes hazardous materials, Seller represents and warrants that Seller and its employees, agents, and subcontractors understand the nature of, and hazards associated with, the handling, transportation, and use of such hazardous materials as applicable to Seller. Prior to causing hazardous materials to be on Buyer's premises, Seller shall provide Buyer with Material Safety Data Sheets (MSDS) and any other documentation reasonably necessary to enable Buyer to comply with applicable laws and regulations, and obtain written approval from Buyer's environmental, health and safety organization or

regulatory authority. Seller shall defend, indemnify and hold Buyer harmless from any claim or liability arising in connection with providing hazardous materials to Buyer.

### **13. Intellectual Property.**

13.1. Seller will defend, at its own expense, any suit or claim that may be instituted against Buyer or any customer of Buyer for alleged or actual infringement of patents, copyrights, trademarks, trade secrets or other intellectual property rights (collectively "IP") relating to the reproduction, maintenance, importation, sale or use of the Products. Seller shall indemnify and hold Buyer, its affiliates and its customers harmless for all costs and damages arising out of such alleged or actual infringement. Buyer has the right to defend against any suit or claim. Buyer shall promptly notify Seller of such claim or demand.

13.2. If an injunction is issued as a result of any claim or action, Seller agrees, at its sole cost and expense, and at Buyer's option to either: (1) procure for Buyer the right to continue using the Products; (2) replace the Products with non-infringing Products; or (3) modify the Products so they become non-infringing. If, despite Seller's best efforts, none of the foregoing options are available, Buyer may at its option return the Products at Seller's sole cost and expense, and Seller shall refund to Buyer the purchase price of the Products.

13.3. Seller's obligations pursuant to this Section shall not apply where Products are manufactured to Buyer's detailed design and such design is the cause of the claim.

### **14. Liability for Injury.**

14.1. Seller warrants that Products are in compliance with NFPA, NEC, NRTL and SEMI standards.

14.2. Seller agrees to protect, defend, indemnify and hold Buyer harmless from and against any and all claims, liabilities, demands, penalties, forfeitures, suits, judgments and the associated costs and expenses (including reasonable attorneys' fees), which Buyer may hereafter incur, become responsible for or pay as a result of death or bodily injury to any person, to the extent legally permissible, destruction or damage to any property, contamination of or adverse effects on the environment and any clean-up costs in connection therewith, or any violation of governmental law, regulation, or orders, , caused, in whole or in part, by the Products, including the operating instructions of the Products, or Seller's breach of any term or provision hereof. Seller shall not be responsible for any such damages or liabilities arising solely out of Buyer or its representatives operating the Products in an unsafe manner or in a manner contrary to the operating instructions provided to Buyer by Seller.

14.3. Seller shall carry and maintain insurance coverage reasonably satisfactory to Buyer that cover the forgoing liabilities, and upon Buyer's request, shall furnish to Buyer appropriate evidence of such insurance.

### **15. Limitation on Liability.**

IN NO EVENT SHALL BUYER BE LIABLE FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE OR KIND WHATSOEVER, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS OR OTHER ECONOMIC LOSS ARISING OUT OF THE PROVISION OF THE PRODUCTS TO BUYER, OR SELLER'S MANUFACTURE OF THE PRODUCTS, EVEN IF BUYER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. In no event shall Buyer's liability to Seller exceed \$100,000 or the value of the Order, whichever is less. The limitations on liability in this Section form an essential basis of the bargain between the parties and shall survive and apply even if any remedy specified in this Agreement is found to have failed of its essential purpose.

### **16. Equal Employment Opportunity.**

Buyer may be a government contractor or subcontractor to the United States government and is subject to the equal employment opportunity obligations of federal contracts, including but not limited to 41 CFR 60-300.5(a) and 41 CFR 60-741(a). As a supplier to Buyer, you may be subject to the following rules and regulations: This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

### **17. Miscellaneous.**

17.1. Neither Buyer nor Seller shall be liable for any delay in performance or for non-performance, in whole or in part, caused by the occurrence of any contingency beyond its control, including but not limited to, war, sabotage, insurrection, riot or other act of civil disobedience, act of a public enemy, failure in transportation, act of any government or any agency or subdivision thereof affecting the terms of this contract or otherwise, judicial action, accident, fire, explosion, flood, storm or other natural disaster, however, that (1) when an actual or threatened event delays or is anticipated to delay the timely performance of obligations under the Order, the party shall immediately notify the other party in writing of all relevant information and the anticipated date performance will be completed; and (2) the other party shall have the right to terminate without penalty if the delay is more than thirty (30) days.

17.2. Seller shall at all times comply with the U.S. Foreign Corrupt Practices Act and any other similar laws which prohibit the offering, giving or promising to offer or give, directly or indirectly, money or anything of value to any official of a government, political party or instrumentality to assist it or Buyer in obtaining or retaining business.

17.3. Neither this Agreement as a whole, nor any right or interest under this Agreement or the Order, may be assigned or delegated by Seller without Buyer's prior written consent.

17.4 Nothing in relation to the sale of Products in relation to the Order shall be construed to preclude Buyer from producing, distributing or marketing the same or similar goods as the Products provided under the Order, or purchasing the same or similar items from other third parties.

17.5. Any delay or failure by Buyer to pursue any and all of its remedies upon a breach by Seller, or to insist upon Seller's performance of any provision of the Order, shall not be construed as a waiver of Buyer's rights under this Agreement and applicable state law. Any waiver of Buyer's rights or claims under this Agreement must be in writing, given in exchange for valuable consideration and signed by an authorized officer of Buyer.

17.6. Buyer and Seller are independent contractors, and their relationship is not one of principal and agent. No act or obligation of either party is any way binding upon the other party.

17.7. All notices and other communications required or permitted in connection with this Agreement shall be in writing and shall be sent to a party at its address set forth on the Order, or to such other address as may be specified in writing by a party.

17.8. If any part of this Agreement is deemed unenforceable for any reason, the remainder of the Agreement shall remain in full force and effect.

17.9. This Agreement will be governed and construed under the laws of the State of California without regard to conflicts of law principles. Application of the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 is expressly excluded. Any suit or proceeding arising out of or relating to this Agreement will be brought in the federal or state courts, as applicable, having jurisdiction in Santa Clara County, California, and each party irrevocably submits to the jurisdiction and venue of such courts.