

Brainchip Inc. Terms and Conditions of Sale

1. DEFINITIONS - As used herein, the following terms shall have the meanings set forth below:

(a) "Seller" and "Buyer" shall mean, respectively, Brainchip Inc. and the individual or entity for whose account a Purchase Order has been placed with Seller.

(b) "Purchase Order" shall mean an oral or written offer to purchase Product communicated to Seller by or on behalf of Buyer.

(c) "Order Acknowledgment" shall mean the document that is generated by Seller which sets forth the terms governing the sale of Product to Buyer.

(d) "Product" shall mean Seller's product (in die, packaged or wafer form, hardware), Licensed Software and service described on Seller's Order Acknowledgment, and shall include Standard Product, Application Specific Product, or Custom Product, unless otherwise noted.

(e) "Standard Product" shall mean Product which are regularly inventoried by Seller and are not Application Specific Product or Custom Product.

(f) "Application Specific Product" shall mean Product which are not regularly inventoried by Seller and are not Custom Product, including but not limited to hardware acceleration cards.

(g) "Custom Product" shall mean Product which are customized to the specifications of Buyer, to the extent that they have little or no economic value to another customer of Seller and cannot be economically re-worked for sale to another customer.

(h) "Licensed Software" shall mean computer software and firmware in all forms, and as set forth in Section 19.

2. PURCHASE ORDER ACCEPTANCE - These Terms and Conditions of Sale, as referenced on the front of Seller's Order Acknowledgment shall apply to all bids, quotations and Purchase Order for the sale of Product by Seller. Except as specifically set forth in a document signed by the authorized representatives of both parties, these Terms and Conditions of Sale shall represent the sole understanding between the Seller and Buyer with respect to the purchase and sale of Seller's Product. Any provision of Buyer's Purchase Order or other written communication which is in any way inconsistent with or in addition to these Terms and Conditions of Sale shall not be binding on Seller. Seller's Order Acknowledgment constitutes a counter offer to Buyer and Buyer's failure to object in writing to any provision within five (5) days of receipt of Seller's Order Acknowledgment shall constitute acceptance of these Terms and Conditions of Sale. Seller's failure to object to provisions contained in any communication from Buyer shall not be a waiver of these Terms and Conditions of Sale. If the Products are furnished for or to be used in the performance of a U.S. Government contract or subcontract for which a mandatory passdown clause or clauses are applicable, Buyer shall inform Seller of such clause(s) and allow Seller to review the clause(s) in question before Seller commences performance. In event the performance is commenced prior to receiving such notice, Seller reserves the right to terminate, without any liability whatsoever, any orders related to the U.S. Government and Buyer shall indemnify Seller against any claims related to the termination of such orders.

3. PRICE AND PAYMENT

(a) All prices published or quoted by Seller may be changed at any time without notice. Unless otherwise specified, written quotations expire thirty (30) calendar days from the date issued.

(b) Seller will invoice Buyer on the date the Product is tendered to the carrier at Seller's shipping point (hereinafter referred to as the "delivery date"). Such invoices will be due and payable net thirty (30) days from date of invoice, subject to prior credit approval, without deduction or set off of any kind.

(c) Seller, at its option, may require that sales be entered into on the express condition that Buyer establish in favor of Seller an irrevocable letter of credit in a form acceptable to Seller confirmed by a United States bank acceptable to Seller payable to Seller in United States dollars on presentation of a sight draft, a copy of a commercial invoice, a packing list and a bill of lading indicating delivery to a carrier of a Product for delivery to Buyer or to Buyer's Purchase Order. All associated costs shall be Buyer's responsibility.

(d) For sales to a Buyer having a principal place of business outside the United States of America, Seller reserves the right to bill in United States dollars or the currency of the country in which the Product is shipped. In such event the rate of exchange will be that in effect on the delivery date.

(e) At any time prior to the delivery date Seller reserves the right to change any terms of credit extended to Buyer in the event Seller believes, in good faith, that there has been an adverse change in credit worthiness of Buyer or Buyer fails to comply with agreed credit terms and to require partial or full payment in advance. In such event, if Buyer refuses to accept such change in credit terms, Buyer's Purchase Order can be canceled by Seller without any liability to Seller. In the event of bankruptcy or insolvency of Buyer or in the event any proceeding is brought by or against Buyer under any bankruptcy or insolvency laws or their equivalent, Seller may cancel any Purchase Order then outstanding without liability to Seller and Seller shall receive reimbursement from Buyer for costs incurred and lost profit for Product so canceled.

(f) It is expressly understood by Buyer that with respect to any Product set forth on the Order Acknowledgment, the purchase price(s) per unit set forth reflect volume discounts determined by reference to the total number of units of the respective Product which Buyer has agreed to purchase from Seller. Accordingly, it is expressly agreed by Buyer that if the total number of units of any Product purchased and paid for by Buyer is less than the number of units of such Product which Buyer has agreed to purchase, then Seller may immediately issue to Buyer a supplemental invoice for an amount equal, on a per unit basis, to the difference between (i) Seller's list price for such Product then in effect and (ii) the purchase price for such Product set forth on the Order Acknowledgment. Any such supplemental invoice shall be payable no later than thirty (30) days after the date thereof.

(g) Without limiting any other remedies available to Seller at law or in equity or otherwise, there shall be charged to Buyer a delinquency and service fee of one and one-half percent (1.5%) per month or the highest rate permitted by law, if less, on amounts due Seller for any period during which payment remains in arrears, and such discounts as may from time to time be offered by Seller with respect to its Product shall not be made available to Buyer while any payment owed by Buyer to Seller remain in arrears.

4. RESERVATION OF SECURITY INTEREST - Seller reserves and retains a security interest in the Product and the proceeds thereof until payment therefor in full has been made by Buyer. The Order Acknowledgment constitutes a security agreement between Buyer, as debtor, and Seller, as secured party, under the Uniform Commercial Code, and Seller shall have the rights and remedies of a secured party thereunder. Buyer authorizes Seller to file financing statements and to do any other act or thing necessary or useful in perfecting Seller's security interest in the Product, and agrees to execute any and all documents required to be executed on its part to perfect said security interest.

5. TAXES - Unless otherwise stated on the Order Acknowledgment or in the quote, the prices do not include customs, duties or any sales, use, excise, or other similar taxes. Buyer shall pay, in addition to the prices indicated, the amount of any present or future customs, duties or any sales, use, excise or other similar tax applicable to the sale of Product, or in lieu thereof Buyer shall supply Seller with an appropriate tax exemption certificate.

6. F.O.B. POINT - All sales are made F.O.B. point of shipment, Seller's facility. Title and risk of loss or damage shall pass to Buyer upon tender of the Product to the carrier at the shipping point. Unless written instructions from Buyer specifying the method of shipment to be used have been received and accepted by Seller, Seller will exercise its own discretion with respect to manner of shipment, insurance, and carrier to be used. Buyer shall be solely responsible for filing any claims for damage during shipment with the carrier. After the passage to Buyer of such risk of loss, the Product held by Seller, for whatever reason, shall be held for Buyer's account at Buyer's expense, irrespective of whether the Product are within the coverage of any insurance policy maintained by Seller.

7. DELIVERY

(a) Seller will manufacture in accordance with the shipment date as indicated in the Order Acknowledgment. However, the shipment date is an estimate only, and Seller will be subjected to no liability for failure to perform on or by such date.

(b) Seller reserves the right to make partial shipments by line item with the consent of the Buyer, which consent shall not be unreasonably withheld, and invoices will be issued accordingly by Purchase Order line item. In the event of any breach as specified in Section 17, Seller may refuse to make further shipments.

(c) All Product ordered hereunder must be delivered by Seller within twelve (12) months of the date indicated on the Order Acknowledgment.

8. PRODUCT ACCEPTANCE

(a) Buyer shall have no right to reject Custom and Application Specific Product on the basis of variation from the quantity ordered where such variation is within $\pm 10\%$ of the quantity ordered. Buyer shall pay for such Product actually received at the price indicated in the Order Acknowledgment.

(b) Except as set forth in Section 8(a) above, Buyer shall give notice to Seller (and the carrier where appropriate) of discrepancies between type and quantity of Product ordered and Product delivered, or damage to the Product, within three (3) working days of delivery of the Product to a common carrier or to the Buyer, whichever is earlier. Lacking such notice, Buyer shall be deemed to have accepted the Product as invoiced.

(c) Product may be returned to Seller only after prior notification and receipt of a Return Material Authorization number (hereinafter referred to as "RMA Number"). All Product returned under an RMA will be at Buyer's expense and risk. Product returned without a valid RMA number will be sent back to the Buyer at Buyer's expense and risk. Buyer's returns must be requested within sixty (60) days of invoice date.

(d) No credit allowances for defective Product will be made or replacements therefore shipped until it is established to Seller's satisfaction after suitable test and inspection that the Product was in fact defective. Seller reserves the right to impose a reasonable rescreening charge if Seller determines that Product returned is found to be functional.

9. SPECIFICATIONS - All Product is subject to Seller's standard specifications. Seller reserves the right to make substitutions and modifications in the specifications of any Product without notification to or approval from Buyer, provided that such substitutions or modifications do not materially affect Product performance.

10. LIMITED WARRANTY - Seller warrants all Custom Products against defects in materials and workmanship for a period of twelve (12) months from the delivery date. Seller warrants all Application Specific Products, including cards or boards, against defects in materials and workmanship for a period of twelve (12) months from the delivery date. Seller warrants all Standard Products against defects in materials and workmanship for a period of ninety (90) days from the delivery date. Seller's sole liability shall be limited to either, replacing, repairing or issuing credit, at its option, for the Product if it has been paid for. Seller will not be liable under this provision unless:

(a) Seller is promptly notified in writing upon discovery of claimed defects by Buyer;

(b) The claimed defective Product is returned to Seller, insurance and transportation charges prepaid, by Buyer;

(c) In case of Standard Product, the claimed defective Product is received within ninety (90) days from the delivery date; In case of Application Specific Product or Custom Product, the claimed defective Product is received within twelve (12) months from the delivery date; and

(d) Seller's examination of the Product discloses to its satisfaction that the alleged defect was not caused by misuse, neglect, improper installation, repair, alteration, accident or other hazard.

THIS WARRANTY DOES NOT COVER PRODUCT DAMAGE WHICH RESULTS FROM ACCIDENT, MISUSE, ABUSE, IMPROPER LINE VOLTAGE, FIRE, FLOOD, LIGHTNING OR OTHER ACTS OF GOD OR

DAMAGE RESULTING FROM ANY MODIFICATIONS, REPAIRS OR ALTERATIONS PERFORMED OTHER THAN BY SELLER OR SELLER'S AUTHORIZED AGENT OR RESULTING FROM FAILURE TO STRICTLY COMPLY WITH SELLER'S WRITTEN OPERATING AND MAINTENANCE INSTRUCTIONS. BUYER ACKNOWLEDGES THAT THE PRODUCT ARE HIGHLY SENSITIVE ELECTRONIC PRODUCT REQUIRING SPECIAL HANDLING AND THAT THIS WARRANTY DOES NOT APPLY TO IMPROPERLY HANDLED PRODUCT. PRODUCT MANUFACTURED TO MEET BUYER'S SPECIFIC PERFORMANCE SPECIFICATIONS ACCEPTED BY SELLER ARE WARRANTED ONLY TO PERFORM IN CONFORMITY WITH SUCH SPECIFICATIONS, AND ARE WARRANTED ONLY AGAINST DEFECTS NOT RELATED TO SUCH SPECIFICATIONS IN ACCORDANCE WITH THE TERMS AND CONDITIONS SET FORTH HEREIN ABOVE.

11. LIMITS OF LIABILITY AND INDEMNIFICATION

(a) THE WARRANTIES OF SELLER SET FORTH ABOVE ARE IN LIEU OF, AND BUYER HEREBY WAIVES, ALL OTHER WARRANTIES OF SELLER, EXPRESS OR IMPLIED, ARISING OUT OF OR IN CONNECTION WITH, THE SALE OF PRODUCT, OR THE USE, INSTALLATION OR PERFORMANCE THEREOF, IN THE COURSE OF DEALING OR PERFORMANCE UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

(b) SELLER SHALL NOT BE LIABLE TO BUYER, TO BUYER'S CUSTOMERS OR TO ANY OTHER PERSON, AND BUYER AGREES TO INDEMNIFY SELLER, WITH RESPECT TO ANY CLAIMS FOR INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFIT, AND LOSS OF PLANT, EQUIPMENT, PRODUCTION, PROPERTY DAMAGE OR PERSONAL INJURY ARISING FROM THE SALE OR SUBSEQUENT USE OF PRODUCT.

12. PATENT INFRINGEMENT – INDEMNIFICATION

(a) Seller agrees, at its own expense, to defend Buyer from and against any claim, suit or proceeding, and to pay all judgments and costs finally awarded against Buyer by reason of claim, suit or proceeding insofar as it is based upon an allegation that the Product as furnished by Seller infringes any United States letter patent, provided that Seller is notified promptly of such claim in writing and is given authority and full and proper information and assistance (at Seller's expense) for defense of same. In case such Product are finally constituted an infringement and the use of Product is enjoined, Seller shall at its sole discretion and at its own expense: (1) procure for Buyer the right to continue using the Product; (2) replace or modify the same so that it becomes noninfringing; or (3) remove such Product and grant Buyer a credit for the depreciated value of the same.

(b) Buyer shall have the right to employ separate counsel in any claim, suit or proceeding set forth in Section 12(a) and to participate in the defense thereof, but the fees and expenses of Buyer's counsel shall not be borne by Seller unless: (1) Seller specifically agrees in writing; or (2) Seller, after Buyer's written request and without cause, does not assume such defense. Seller shall not be liable to indemnify Buyer for any settlement effected without Seller's written consent, unless Seller failed, after written notice and without cause, to defend such claim, suit or proceeding.

(c) The indemnification set forth in Section 12(a) shall not apply and Buyer shall indemnify Seller and hold it harmless from all liability or expense (including costs of suit and attorney's fees) if the infringement arises from, or is based upon Seller's compliance with particular requirements of Buyer or Buyer's customer that differ from Seller's standard specifications (Custom Product) for the Product, or modifications or alterations of the Product, or a combination of the Product with other items not furnished or manufactured by Seller.

(d) Buyer agrees that Seller shall not be liable for any collateral, punitive, incidental or consequential damages arising out of patent infringement.

(e) The foregoing states the entire liability of Seller for patent infringement.

13. LIFE SUPPORT POLICY - Seller's Product are not authorized for use as critical components in life support devices or systems. Life support devices or systems are devices or systems which, (a) are intended for surgical

implant into the body, or (b) support or sustain life, and whose failure to perform, when properly used in accordance with instructions for use provided in the labeling, can be reasonably expected to result in a significant injury or death to human life.

A critical component is any component of a life support device or system whose failure to perform can be reasonably expected to cause the failure of the life support device or system, or to affect its safety or effectiveness. Buyer agrees to indemnify, defend and hold Seller harmless for any cost, loss, liability, or expense (including without limitation attorneys' fees and other costs of litigation or threatened litigation) arising out of violation of the above prohibition by Buyer or any person or entity receiving Seller's Product through Buyer.

14. CANCELLATION - Buyer's rights and obligations with respect to cancellation of Purchase Orders shall be governed by this Section 14.

(a) In the case of Standard Product, Seller must receive Buyer's written cancellation notice no less than thirty (30) days prior to Seller's scheduled ship date indicated in the Order Acknowledgment.

(b) In the case of Application Specific Product, Seller must receive Buyer's written cancellation notice no less than ninety (90) days prior to Seller's scheduled ship date indicated in the Order Acknowledgment.

(c) In the case of Custom Product, Seller must receive Buyer's written cancellation notice no later than one hundred and eighty (180) days or the quoted lead for that specific device, whichever is longer, prior to Seller's scheduled ship date indicated in the Order Acknowledgment.

(d) In the case of Discontinued Product, Buyer's Purchase Orders are noncancellable, nonreschedulable, and nonreturnable, unless Seller agrees in writing otherwise.

(e) Notwithstanding the provisions of Sections 14(a) through 14(c), if the Buyer cancels, at any time, Seller may, at its election, be entitled to receive from Buyer reimbursement for the costs, direct and indirect, of all work in process at the time of cancellation, NRE cancellation expenses as specified in the quote plus reasonable profit and any extra shipping or customized charges.

(f) If Buyer cancels any portion of the Product indicated on the Order Acknowledgment, Buyer shall be liable for the adjustments to the purchase price on the Product actually purchased as specified in Section 3 and Seller shall be entitled to collect such adjustment in the manner specified therein.

15. RESCHEDULING OF DELIVERY - Buyer's right to reschedule deliveries shall be governed by this Section 15.

(a) In the case of Standard Product, Seller must receive Buyer's written reschedule request no less than thirty (30) days prior to Seller's scheduled ship date indicated in the Order Acknowledgment.

(b) In the case of Application Specific Product, Seller must receive Buyer's written reschedule request no less than ninety (90) days prior to Seller's scheduled ship date indicated in the Order Acknowledgment.

(c) In the case of Custom Product, Seller must receive Buyer's written reschedule request no less than one hundred eighty (180) days or the quoted lead for that specific device, which ever is longer, prior to Seller's scheduled ship date indicated in the Order Acknowledgment.

(d) With respect to rescheduled orders pursuant to Section 15(b) and 15(c) above, such rescheduled orders must be delivered within ninety (90) days of Seller's original scheduled ship date, may only be rescheduled once and will maintain the acknowledged pricing.

16. U.S. EXPORT LAWS

(a) Buyer and Seller shall comply with all export laws of the United States. Export directly or indirectly of Products, or goods containing the Products, to any other country may be prohibited unless Buyer obtains prior export or re-

export authorization from the United States Government. Buyer shall hold Seller harmless and indemnify it for any fines, penalties or other liability, (including attorney fees) that result from Buyer's failure to meet these obligations.

(b) Seller's Product line may contain devices that implement encryption and – either as a device or embedded in a system – their export is controlled by the U.S. Government and may require an export license or other prior approval. Call or fax Seller for background information on the export classification of the specific Products and your responsibility under U.S. law.

17. BREACH - Any one of the following acts by Buyer shall constitute a breach of Buyer's obligations under the contract formed by acceptance of the Order Acknowledgment:

(a) Failure to make payment for any Product from Seller when due;

(b) Failure to accept conforming Product supplied hereunder;

(c) The filing of a voluntary or involuntary petition in bankruptcy against Buyer, the institution of any proceeding in insolvency or bankruptcy (including reorganization) against Buyer, the appointment of a trustee or receiver of Buyer, or an assignment for the benefit of creditors of Buyer; or

(d) Any other act by Buyer in violation of any of the provisions as stated herein. In the event that Buyer breaches any provision herein in any manner set forth above, Seller may (in addition to any other right or remedies provided herein or at law or in equity), by written notice to Buyer, terminate the contract or any part thereof, without any liability to Seller whatsoever. Buyer shall pay all costs, including reasonable attorneys' fees, incurred by Seller in any action brought by Seller to collect payments owing or otherwise enforce its rights.

18. PROPERTY RIGHTS AND TOOLING - Unless otherwise expressly agreed in writing, circuit schematics and logic diagrams, mask sets, design tapes, processing information, test programs and hardware and any other proprietary information shall remain the sole property of Seller.

19. Licensed Software – Delivery of Seller's software product is subject to a separate software license agreement. Refer to the applicable software license agreement for terms and conditions relative to the Licensed Software. In case of dispute, the order of precedence shall be (1) the terms set forth in the software license agreement and (2) the Terms and Conditions set forth herein.

20. Confidentiality - The parties acknowledge that they may receive confidential and/or proprietary information relating to the business of the other party or its licensors, including without limitation designs, presentations, drawings, schematics, software tools, software (in source and object forms), user interface designs, architecture, class libraries, objects and documentation (both printed and electronic), network designs, source code, computer programming, techniques, algorithms, processes, customer lists, library elements, standard cells, proprietary I/Os, memory compilers, technical information, characterization, design rules, formulae, physical descriptions or views, logical views or binary representations, performance and interface information, proprietary command architecture, proprietary scheme constructs (commands, format, syntax, and semantics), defects, bugs, proprietary circuit behavior information, Buyer-supplied data, circuit, logic elements technical and marketing information, know-how and/or trade secrets, which are identified as confidential and/or proprietary at the time of disclosure or that a reasonable person would consider, from the nature of the information, as confidential and/or proprietary (the "Confidential Information"). The receiving party shall treat the Confidential Information as confidential to and as the property of the disclosing party and use a degree of care not less than the degree of care it uses with respect to its own information of like nature to prevent unauthorized access, use or disclosure, which in any event shall be no less than a reasonable degree of care. The receiving party will not disclose the other party's Confidential Information, except to the receiving party's directors, officers, employees and contractors who have a need to know for the purpose of carrying out the business relationship and who are bound by written confidentiality obligations no less protective of the disclosing party's confidential information than this Section. As soon as practicable, the receiving party shall notify the disclosing party of any breach of the terms set forth in this Section 20. Each party will use and maintain reasonable security measures (Which measures shall be at least those used by the receiving party to protect its own Confidential Information) to protect the other party's Confidential Information. The receiving party shall not transmit, maintain, remanufacture or duplicate all or any part of, the Confidential Information except in accordance

with the terms herein. The receiving party shall be directly liable for the acts or omissions of its directors, officers, employees and contractors with respect to such confidentiality obligations. The receiving party agrees to segregate all such Confidential Information from the confidential information of others in order to prevent commingling. The foregoing obligation of confidentiality does not apply to information that: (a) is or becomes generally known or available through no fault of the receiving party; (b) is known by the receiving party prior to the time of disclosure and is not subject to restriction, as evidenced by receiving party's written records; (c) is independently developed by the receiving party, as evidenced by receiving party's written records; (d) is lawfully obtained from a third party, who has the right to make such disclosure without restriction; (e) is released for publication by disclosing party in writing; or (f) is required to be disclosed by law. Buyer acknowledges that disclosure or use of the Confidential Information contrary to these terms will cause Seller irreparable harm for which damages may not be an adequate remedy and further acknowledges that in addition to any other remedies that may be available to Seller at law, Seller may apply for all available equitable relief including injunctive relief.

21. GENERAL

(a) Seller's Order Acknowledgment and the Exhibits attached, if any, thereto constitutes the entire agreement (the "Agreement") between the parties with respect to the subject matter thereof and there are no representations, warranties or commitments except as set forth therein, and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, written or oral, of the parties, relating to the subject matter thereof.

(b) All rights and obligations of the parties to this Order Acknowledgment shall be governed by and construed in accordance with the laws of the State of California without reference to its laws of conflict. The parties hereto subject themselves to the jurisdiction of and agree that venue shall be of the State Courts of California in Alameda County or federal courts residing therein with respect to any dispute, disagreement or claim arising hereunder. Buyer agrees to submit to the personal jurisdiction of such courts and agrees that venue shall be appropriate in such state or federal courts.

(c) Failure of any party hereto to enforce any of the provisions of the Order Acknowledgment, or any rights with respect thereto, or failure to exercise any election provided for therein, shall in no way be considered a waiver of such provisions, rights or elections, or in any way effect the validity of the Order Acknowledgment. The failure by any party hereto to enforce any of said provisions, rights, or election shall not prejudice such party from later enforcing or exercising same or any other provisions, rights, or elections which it may have under the Order Acknowledgment.

(d) Any notice or other communication required or permitted hereunder shall be deemed sufficient only if in writing and hand delivered or mailed, postpaid, by registered or certified mail, return receipt requested, to Seller at the following addresses:

Brainchip Inc. 65 Enterprise, Aliso Viejo, CA 92656 United States
ATTN: Law Department

or to such other address as it shall be designated by notice pursuant to this subsection. Such notice shall be deemed to have been given on the date actually received by the party to whom it is directed.

(e) No modification, amendment, waiver, consent or discharge in connection with the Order Acknowledgment shall be binding upon either party unless in writing and signed by the party sought to be charged with the same.

(f) All covenants, stipulations and promises in the Order Acknowledgment shall be binding upon and inure to the benefit of the parties hereto and their respective successors in interest, assignees, and legal representatives. Neither party shall have the right to assign or otherwise transfer its rights or obligations under the Order Acknowledgment without the prior written consent of the other party; provided, however, that a successor in interest to a party by merger, by operation of law, or by assignment, purchase, or otherwise, of the entire business of either party shall acquire all the rights and be subject to all the obligations of such party hereunder, without the necessity of obtaining such prior written consent; provided, however, that nothing herein shall prevent either party from assigning all of its rights and obligations under the Order Acknowledgment to a subsidiary of that party upon written notice to the other party.

(g) If the performance of the Order Acknowledgment or if any obligations hereunder, except the making of payments, is prevented, restricted, or interfered with by reason of fire or other casualty or accident; strikes or labor disputes; inability to obtain raw materials, unforeseen manufacturing inefficiencies, power, or supplies, war or other violence; any law, order, proclamation, regulation, ordinance, demand, or requirement of any government agency; or any other act or condition whatsoever beyond the reasonable control of the parties hereto, the party so affected upon giving prompt written notice to the other party, will be excused from performance to the extent of the prevention, restriction, or interference, provided that the party so affected uses its best efforts to avoid or remove the causes of nonperformance and continues performance hereunder with the utmost dispatch as soon as those causes are removed.

(h) The prevailing party in any legal, arbitration or dispute resolution action brought by one party against the other regarding the performance, interpretation, enforcement or with respect to any matter arising out of or in connection with this Agreement shall be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses incurred thereby, including court costs, reasonable attorneys' fees and related collection costs.