

FAIRCHILD IMAGING, INC.

TERMS AND CONDITIONS OF SALE

1 General.

- 1.1 "Fairchild Imaging" shall mean Fairchild Imaging, Inc. "Buyer" shall mean the Party placing a purchase order with Fairchild Imaging. Fairchild Imaging and Buyer may individually be referred to as a "Party" and collectively as the "Parties."
- 1.2 Fairchild Imaging shall not be deemed to have any commitment or liability to Buyer until Buyer has placed a written purchase order ("Order") and has acknowledged these terms and conditions of sale ("Terms and Conditions"), and such Order has then been accepted by Fairchild Imaging in writing at its principal office ("Acceptance"). No statements or representations by any employee or agent of Fairchild Imaging shall constitute an Acceptance or a binding commitment on Fairchild Imaging's behalf.
- 1.3 All Orders and deliveries hereunder are subject to all the terms and conditions identified herein unless modified in writing by a duly authorized representative of Fairchild Imaging. Notwithstanding any prior dealings between Fairchild Imaging and Supplier, the respective Order is expressly made conditional on, and Fairchild Imaging expressly limits the provision of any Products or Services set forth in the Order to Buyer, to these the Terms and Conditions.
- 1.4 Any of the following acts shall constitute acceptance by Buyer of the quotation and these Terms and Conditions below: (i) signing and returning a copy of the quotation; (ii) accepting any of the Products or Services ordered; (iii) informing of Fairchild Imaging in any manner of acceptance; (iv) sending Buyer's purchase order; and (v) making payment to Fairchild Imaging for the Products or Services ordered. Buyer acknowledges that Buyer has read, understands, and agrees to be bound by these Terms and Conditions. If Buyer objects to any item in these Terms and Conditions, Buyer shall (i) notify Fairchild Imaging in writing and (ii) withhold placement of any purchase order, and not accept any performance, shipment of Products, or furnishment of Services (including any deliverable) in connection with the purchase order until/unless such objection is settled in writing signed by Fairchild Imaging and Buyer.

2 Scope.

- 2.1 Precedence. These Terms and Conditions apply to all quotations / offers, Orders, and Acceptances entered into by Fairchild Imaging. To the extent any such terms may conflict with any other terms of Buyer or any other party, these Terms and Conditions shall take precedence and all others are specifically rejected unless Fairchild Imaging expressly agrees in writing. Fairchild Imaging's failure to object to provisions contained in any communication from Buyer shall not be deemed an acceptance of such provisions or a waiver of any items within these Terms and Conditions. In the absence of written acceptance of these Terms and Conditions, acceptance of and/or payment for the products covered herein ("Products") implies the Buyer accepts these Terms and Conditions and, by the same, waives its own terms and conditions of purchase, if any, even if such purchase order explicitly states otherwise.
- 2.2 Entire Agreement. These Terms and Conditions, together with any and all other terms and conditions on the quotation / offer, Acceptance, and any and all attachments, and any language on Buyer's purchase order which is not in conflict with the preceding documents, constitute the entire agreement between the Parties relating to the sale of Products described on said Order and no addition or modification of any provision hereof shall be binding on either Party unless made in writing by a duly authorized representative of both Parties.

- 2.3 Specifications. Fairchild Imaging will supply a Product pursuant to Fairchild Imaging's published specifications and these Terms and Conditions to Buyer at prices in accordance with Fairchild Imaging's quotation or published prices. Fairchild Imaging reserves the right to make corrections, modifications, enhancements, improvements, and other changes to the specifications, at any time, and/or to discontinue any Product or service without notice. In the event Fairchild Imaging modifies a Product, Fairchild Imaging has no obligation to modify, change, or replace any other Products previously delivered or to supply new Products without such modifications. Buyer should obtain the latest relevant specification before placing purchase orders and should verify that such information is current and complete.

- 3 Delivery and Shipment.** Fairchild Imaging will deliver the Products within the delivery times stated under the Acceptance unless otherwise agreed to. Delivery dates stated are Fairchild Imaging's best estimate of the delivery schedule. In the event of a force majeure event pursuant to Section 15 (Force Majeure), Fairchild Imaging reserves the right to substitute reasonable alternative delivery dates without such substitution being considered a breach of the Order. All shipments of Product shall be Ex Works (EXW) Fairchild Imaging's shipping facility pursuant to INCOTERMS 2020. All Products will be shipped in accordance with shipping instructions provided by Buyer. If Buyer fails to specify a carrier, Fairchild Imaging will deliver to a carrier it deems most appropriate.

- 4 Price.** The prices are firm and not subject to audit, price revisions, or price redeterminations. All prices are exclusive of any present or future sales, use, value added, revenue, excise, or other taxes, customs or import duties (including brokerage fees), or any other government charges applicable to the Products covered by the Order or the Product's manufacture or sale, however designated, levied upon, or measured by the sale, the sales price, or use of the Products, material, or services required in the performance of the Order. Fairchild Imaging will list separately on its invoice ("Invoice") any such applicable taxes, and payable by Buyer, unless Buyer furnishes to Fairchild Imaging evidence of exemption (e.g., a Resale Certificate, Tax Exempt Certificate, or Direct Pay Certificate) acceptable to the taxing authority. Prices do not include any taxes, however characterized, transportation charges, or insurance costs, all of which, where applicable, shall be paid by Buyer. The total price includes packaging in accordance with Fairchild Imaging's standard commercial practice. Special packaging will be at Buyer's expense.

5 Payment.

- 5.1 Fairchild Imaging shall provide Invoices to Buyer showing the Order number, Product description, quantity, delivery dates, and price, and the shipping, taxes, insurance, and other charges initially paid by Fairchild Imaging but to be borne by Buyer. Payment amounts shall be made pursuant to the Acceptance and Invoice.
- 5.2 All Invoices are due and payable as of the date of Invoice. Late payments may be charged interest of nine percent (9%) per annum pro rata. Payment shall be made in full in immediately available U.S. Dollars, to Fairchild Imaging, by check, bank wire transfer, or other form of electronic payment, or as otherwise determined by Buyer and Fairchild Imaging. The terms of payment may be changed or credit withdrawn at any time and Fairchild Imaging may require full or partial payment in advance. Payments are unconditional and are without recourse, set off, or discount. If Buyer shall fail to make any payment in accordance with the Acceptance and Invoice, Fairchild Imaging, in addition to its other rights and remedies, may, at its option, defer shipments or deliveries under this or under any other contract with Buyer. Buyer will execute and furnish to Fairchild Imaging any security interests and documents

necessary to protect Fairchild Imaging's interest in the Products until full payment of the total price is made. In the event any proceeding is brought by or against Buyer under the bankruptcy, insolvency, or similar laws, Fairchild Imaging shall be entitled to ship any Order C.O.D. or to cancel any Order then outstanding and shall receive reimbursements for reasonable cancellation charges.

5.3 Each shipment shall be considered a separate and independent transaction, and payment shall be made accordingly. If Fairchild Imaging's performance is delayed by Buyer, Fairchild Imaging shall invoice and Buyer shall pay (i) for Products ready for shipment at the purchase price and (ii) for the work in process at the time of delay based upon the percentage of completion. Work in process will be held for a reasonable time at Buyer's sole risk and expense and shall be completed only at Buyer's request during such time and at Buyer's cost. Delivery of a quantity that varies from the quantity specified in the Order shall not relieve Buyer of its obligation to accept delivery and pay for the Products delivered.

5.4 Government Contracts. Unless otherwise agreed to in writing by authorized personnel between Fairchild Imaging and Buyer, no term or condition required in any U.S. Government contract or related subcontract shall be part of this Agreement or binding upon Fairchild Imaging. This Agreement and its terms and conditions are intended strictly for application to Products for sale to and use by commercial end-users, and not by local, state, or federal governmental end-users. Any Fairchild Imaging products destined for sale to or use by governmental purchasers and/or end users shall be governed by separate terms and conditions. Therefore, Fairchild Imaging rejects any government provisions (i.e., flow-downs) included in, or referred to, by Buyer's request for quotation, purchase order, or any other document. Unless otherwise agreed upon in writing, certified cost or pricing data will not be provided and Cost Accounting Standards, Defective Pricing, and Audit requirements will not apply.

6 Warranty.

6.1 Fairchild Imaging warrants that title to Products conveyed shall be good and that the Products are free of any security interest or lien except that Fairchild Imaging shall have a security interest in the Products until the purchase price is paid in full.

6.2 Fairchild Imaging warrants that any of its Products furnished under these Terms and Conditions: (i) will at the time of shipment be free from defects in material and workmanship under normal use and service; and (ii) will conform to the specifications. Fairchild Imaging's sole obligation shall be limited to, at Fairchild Imaging's option, either crediting Buyer the purchase price of, repairing, or replacing, any Products for which: (i) written notice of nonconformance is received within one (1) year after original shipment; and (ii) after Fairchild Imaging's authorization, are returned to Fairchild Imaging's factory of origin, freight charges prepaid; and (iii) after examination, are determined solely by Fairchild Imaging to be nonconforming. Any replacement under this Section 6 shall not extend the period within which this warranty may be asserted.

6.3 This warranty shall not apply to Products which Fairchild Imaging determines have, by Buyer or any third party, (a) not been properly maintained or have been subjected to operating and/or environmental conditions greater than the maximum values in the applicable specifications; (b) have been subjected to misuse, neglect, abuse, repair unauthorized by Fairchild Imaging, alteration, modification, damage, or improper installation; or (c) Products acquired through unauthorized sales channels.

6.4 Use of Products in Life Support, Nuclear, and Other High Risk Applications. The Products are not designed, intended, authorized, or warranted for use in life support, life sustaining, aviation, aeronautic, nuclear, or other applications, including, but not limited to, public transportation operating systems, in which the failure of such Products could reasonably be expected to result in personal

injury, death, severe property damage, or environmental damage. The Buyer acknowledges that use of the Products in such applications is fully at the risk of the Buyer and that the Buyer is responsible for verification and validation of the suitability of the Products in such applications. The Buyer agrees that Fairchild Imaging is not and shall not be liable for any claim or damage arising from the use in or with such application. The Buyer agrees to indemnify, defend, and hold Fairchild Imaging harmless from and against any and all claims (including, but not limited to, all losses, damages, liabilities, costs, expenses, claims, demands, lawsuits, and causes of action) ("Claim(s)") arising out of or in connection with such use. The Buyer shall not sell, transfer, export, or re-export any Fairchild Imaging Products or technology for use in activities which involve the design, development, production, use or stockpiling of nuclear, chemical or biological weapons or missiles, nor use Fairchild Imaging Products or technology in any facility which engages in activities relating to such weapons, unless Fairchild Imaging has given its prior written approval of such sale, transfer export or re-export.

6.5 It is Buyer's sole responsibility to ensure the Product is suitable and fit for the application planned by Buyer and to do the necessary testing for the application in order to avoid a default of the application or the product. Weaknesses in Buyer's product designs may affect the quality and reliability of the Fairchild Imaging Product and may result in additional or different conditions and/or requirements beyond those contained in the specification.

6.6 Any documentation, such as physical or electronic websites, data sheets, catalogues, price lists, specifications, illustrations, drawings, and measurements, shall be considered as approximations only unless they are expressly declared to be binding. The warranty provided by Fairchild Imaging shall not be expanded, and no obligation or liability will arise, due to technical advice or assistance, computerized data, facilities, or services Fairchild Imaging may provide in connection with Buyer's purchase of Products.

6.7 DEVELOPMENT PRODUCT(S), PROTOTYPE(S), OR OTHER NON-PRODUCTION PRODUCT(S), SAMPLES OF PRODUCTION PRODUCT(S), AND SOFTWARE ARE NOT WARRANTED AND ARE PROVIDED ON AN "AS IS" BASIS ONLY.

6.8 FAIRCHILD IMAGING DOES NOT GUARANTEE THAT THE OPERATION OF THE WARRANTED PRODUCT WILL BE UNINTERRUPTED OR ERROR FREE. FAIRCHILD IMAGING DOES NOT WARRANT THE PRODUCT FOR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. THIS WARRANTY MAY BE ASSERTED BY BUYER ONLY AND NOT BY BUYER'S CUSTOMERS OR USERS OF BUYER'S PRODUCTS.

6.9 THIS SECTION 6 CONSTITUTES FAIRCHILD IMAGING'S ENTIRE WARRANTY AND BUYER'S SOLE REMEDY WITH RESPECT TO ANY DEFECT OR NONCONFORMANCE IN PRODUCTS PROVIDED BY FAIRCHILD IMAGING. THESE WARRANTIES AND REMEDIES ARE EXCLUSIVE AND IN PLACE OF ALL OTHER WARRANTIES, EXPRESSED, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, SATISFACTORY QUALITY, NON-INFRINGEMENT, OR THOSE ARISING FROM COURSE OF DEALING, USAGE, OR IN TRADE PRACTICE.

7 Ownership and License.

7.1 Buyer acknowledges and agrees that Fairchild Imaging has invested substantial resources in the Intellectual Property of the Products provided under the Order both before the placement of the Order and during the performance period. The total price set forth does not reflect the cost to Fairchild Imaging of such Intellectual Property. Fairchild Imaging will retain all right, title, and interest, including all Intellectual Property Rights, in and to the Technical Manufacturing Information developed under the Order including any

Pre-Existing Intellectual Property with respect to the Product, performance concepts provided by Buyer that may have influenced the final design of the Product, or any image sensor or camera product developed during the period of performance of the Order.

7.2 For the purposes of these Terms and Conditions: (a) "Intellectual Property" shall mean, but not be limited to, patents, registered designs or other design rights, trademarks, domain names, copyright, database rights, moral rights, utility models, and any other intellectual or industrial property rights of any similar or equivalent nature or forms of protection (whether registered or unregistered and whether or not such rights are capable of registration), including without limitation those subsisting in inventions, know-how, technical information, mask works, topography information, designs, drawings, computer programs, business names, goodwill, and trade dress; (b) "Intellectual Property Rights" shall mean all ownership and other rights to Intellectual Property, however configured or construed, including but not limited to all applications (or rights to apply) for and renewals or extensions of such rights and any rights existing or arising in law or equity in relation to the same which may exist before, on or after the date of the Agreement in any part of the world together with any and all rights (including rights of use) pertaining to confidential (confidential) information, trade secrets, technical information, and commercial information; (c) "Pre-Existing Intellectual Property" means any Intellectual Property that has been conceived or developed before performance of the Order; and (d) "Technical Manufacturing Information" means any manufacturing or fabrication information, process, and/or technology used by Fairchild Imaging or third parties under its control to design, develop, test, fabricate, or manufacture the Product including, but not limited to: (i) specifications, software, schematics, designs, patterns, processes, drawings, or other materials pertinent to the most current revision level of manufacturing of the Product, including any mask work and topography information; (ii) copies of all inspection, manufacturing, testing procedures, and quality control procedures, and any other work processes; (iii) jig, fixture, and tooling designs; (iv) Fairchild Imaging history files; and (v) support documentation.

7.3 Buyer's acquisition of the Products under these Terms and Conditions shall not be construed to confer any rights upon Buyer by implication, estoppel, license, or otherwise as to any Fairchild Imaging Intellectual Property. Buyer shall not copy, reproduce, reverse engineer, decompile, or disassemble Products and/or their designs. Buyer shall not use, either directly or indirectly, in whole or in part, any trademark, service mark, trade name, corporate name, or other mark, name, title, or term that is now or subsequently owned, created, used, or licensed by Fairchild Imaging, (collectively, "Trade Names"), or remove or alter any confidential notice concerning copyrights, Trade Names, or other intellectual and industrial property rights from the Products, except in the manner and to the extent that Fairchild Imaging may specifically authorize in writing before any such use. Except as provided in these Terms and Conditions, Fairchild Imaging does not grant to Buyer any right, title, or interest in or to any software, trade secret, copyright, patent, Trade Names, or other Intellectual Property, all of which are exclusively owned by and reserved to Fairchild Imaging.

7.4 Fairchild Imaging grants to Buyer, under its Intellectual Property Rights in its Intellectual Property, Pre-Existing Intellectual Property, and Technical Manufacturing Information, a limited, non-exclusive, nontransferable, indivisible, royalty-free license only to use, display, distribute, import, offer to sell, and sell the Product worldwide, except as restricted by Section 16 (Export Law Compliance).

8 Indemnification.

8.1 Fairchild Imaging will defend Buyer against any Claims of infringement of a United States patent brought against Buyer to the extent that such Claim pertains to the Products supplied to Buyer, provided that Buyer gives Fairchild Imaging prompt written notice of such Claim and the right to maintain sole control of the defense and all negotiations for settlement or compromise of such Claim. If a

final injunction is obtained against Buyer's use of the Products or a portion of the Products as a result of infringement of a United States patent, Fairchild Imaging will, at its option and expense, procure for Buyer the right to continue using the Products, replace the Products, modify the Products so they become non-infringing, or grant Buyer credit for the then current value of the Products, or portion thereof, as agreed upon and accept the Products' return. Under the terms of these Terms and Conditions, Fairchild Imaging will not accept any liability nor hold any person harmless from infringement Claims relating to: (i) Products supplied by Fairchild Imaging which have been manufactured or produced by others and which carry the original manufacturer's or producer's patent indemnification; (ii) Products purchased hereunder but altered by Buyer or others; (iii) a combination of the Products hereunder and other equipment; or (iv) any Claim of infringement of a non-United States patent. The foregoing states the entire liability of Fairchild Imaging with respect to infringement of patents by the Products or any part thereof or by their use.

8.2 Buyer shall defend Fairchild Imaging from and against any Claim arising out of any allegation that (i) the use of the Products, either in connection with other material or equipment, or in the operation of any process, or as used in any altered Products infringes any patent or other intellectual property right, (ii) the Products infringe any patent or other intellectual property right, when such Products were manufactured / modified pursuant to Buyer's designs, specifications, and/or formulae and were not normally offered for sale by Fairchild Imaging, (iii) Buyer's failed to comply with any of the following: Section 16 (Export Law Compliance), Section 17 (Corrupt Practices Prohibition), or Section 19 (Compliance With Laws), (iv) personal injury or death were suffered by Buyer's employees, agents, servants, and subcontractors or third parties, either arising from or relating to the Products delivered under this Agreement or from said person's presence on Fairchild Imaging's premises, and/or (v) property of Buyer, Buyer's employees, agents, servants, and subcontractors or third parties was damaged by the Products.

8.3 If either Party receives notice of a Claim relating to the manufacture, use, or sale of the Products, such Party shall promptly notify the other Party in writing of such Claim. The indemnifying Party shall have the right to select the counsel, assume full control of the defense and settlement of any such Claim, including without limitation any reasonable modification of the Products which may be appropriate to be used in fulfilling its defense and indemnification obligations. The indemnifying Party shall not be responsible for any compromise made without its consent. The Parties agree that the provisions of this Section 8 will survive the termination of the Order.

9 Termination.

9.1 The Order may be terminated by either Party for cause in the event: (i) of a breach or default by the other Party of a material obligation under the Order and/or Acceptance which is not remedied within ninety (90) days after written notice, (ii) a Party becomes insolvent, makes an assignment for the benefit of creditors, files a petition in bankruptcy, be adjudged bankrupt, becomes an involuntary participant in a bankruptcy proceeding, if such proceedings are not dismissed within sixty (60) days after commencement, or (iii) a Party is placed in the hands of a receiver, or otherwise be involuntarily placed into bankruptcy, or otherwise have its charter of incorporation relinquished or cancelled. The equivalent of any of the proceedings or acts referred to in this paragraph, though known and/or designated by some other name or term, shall likewise constitute a ground for termination of the Order. Notwithstanding anything else in these Terms and Conditions, Fairchild Imaging may suspend or terminate the Order without liability and without notice at any time upon learning information giving it a reasonable belief that Buyer may have violated, or may have caused Fairchild Imaging to violate, any of the following: Section 16 (Export Law Compliance), Section 17 (Corrupt Practices Prohibition), Section 18 (No Distribution or Representation), or Section 19 (Compliance With Laws).

9.2 Either Party may terminate the Order for convenience with thirty (30) days advanced written notice. In the event Buyer terminates for convenience, the Products ordered by Buyer in the possession or control of Fairchild Imaging which have been completed and scheduled to be shipped within the thirty (30) day period or (ii) unique Products either in design or quantity, but not yet shipped ("Deemed Delivered"), shall be delivered to Buyer as part of this termination. A unique Product is one that has been or will be specially manufactured to Buyer's specifications, to a design owned by Fairchild Imaging but unique to Customer, or which was required to be purchased in quantities or forms unable to be sold, returned, or otherwise placed or utilized in the market (e.g., a wafer). Buyer shall pay for the quantity of Products delivered and Deemed Delivered at the negotiated price between the Parties. For ordered Products which (i) are work in process but not completed or (ii) unique Products either in design or quantity, Buyer shall pay to Fairchild Imaging all incurred direct and indirect costs including reasonable fees. Fairchild Imaging will use commercially reasonable efforts to return unused material items in inventory and to cancel its pending purchase orders for such materials and to otherwise mitigate the impact of such termination. Any Order that is cancelled by Buyer is subject to a price change. The final determination on the reasonable efforts from the preceding sentence shall be solely determined by Fairchild Imaging.

10 Confidential Information. It hereby acknowledged and agreed that any confidential information exchanged under the Order, and all Intellectual Property Rights under the Order or otherwise, including Pre-Existing Intellectual Property and Technical Manufacturing Information, shall fall subject to the protections provided by the Non-Disclosure Agreement previously executed between the Parties. If the Parties have not executed a Non-Disclosure Agreement, then the following shall control:

10.1 All information, materials, and Product(s) furnished by Fairchild Imaging and identified as containing confidential information must be held in confidence by the recipient using at least the degree of care the recipient uses for its own confidential information, but no less than reasonable care. Except as required by law, the recipient may not disclose such materials or confidential information except to its own employees who require use of the materials in the performance of their duties and who are bound by a duty of confidentiality under terms no less restrictive than contained herein concerning the use of confidential information. All confidential information shall be held in confidence by the recipient for five (5) years after receipt.

10.2 Buyer acknowledges that Fairchild Imaging's confidential information is unique property of extreme value to Fairchild Imaging, and that the unauthorized use or disclosure would cause Fairchild Imaging irreparable harm that could not be compensated by any monetary damages. Accordingly, Buyer agrees that Fairchild Imaging will be entitled to injunctive and preliminary relief to remedy any actual or threatened unauthorized use or disclosure of Fairchild Imaging's confidential information.

11 Independent Contractor / Exclusivity. Each Party is as an independent contractor hereunder. No agency, partnership, joint venture, employment, franchise, or other joint relationship is created by the Order. Any Products sold to Buyer are sold on a non-exclusive basis, and either party shall be free to procure or sell products and services identical or similar to those covered by these Terms and Conditions from or to other parties.

12 Successors and Assigns. Except as expressly provided in the Acceptance, the provisions of these Terms and Conditions are binding upon, and inure to the benefit of, the Parties and their respective successors and assigns; provided, however, that no Party may assign, delegate, or otherwise transfer any of its rights or obligations under the Order or these Terms and Conditions without the written consent of the other Party (except to a legally recognized successor in interest to all or substantially all of the Party's assets). Such consent shall not be unreasonably withheld.

13 Governing Law/Forum. These Terms and Conditions shall be governed, interpreted, and enforced by the law of the State of California, without making reference to its conflicts of law provisions. Any lawsuit or cause of action that arises from or is related to these Terms and Conditions shall be filed with and litigated only in a court of competent jurisdiction located in the County of Santa Clara in the State of California.

14 Waivers. The failure of either Party to enforce at any time or for any period any provision of these Terms and Conditions shall not be construed to be a waiver of such provision or of the right of such Party thereafter to enforce each and every such provision. No waiver of these Terms and Conditions will be binding upon either Party unless made in writing and signed by a duly authorized representative of such Party.

15 Force Majeure. Neither Party to These Terms and Conditions shall be liable for its failure to perform its obligations due to events beyond its reasonable control, including, but not limited to: (i) war, acts of terror or terrorism, subversion, hostilities, invasion, sabotage, or rebellion; (ii) acts of God, fire, flood, pandemic, epidemic, quarantine restrictions, explosion, earthquake, storm, severe weather, accident, or other natural cataclysms; (iii) acts of public enemy, riots, civil commotions, strikes or other labor stoppages or disputes, lockouts, transportation difficulties, inability to secure material, insolvency of key suppliers, embargoes, production difficulties, accidents, or other reasons beyond Fairchild Imaging's control; and (iv) acts of any government or agency, judicial action, or non-expected government acts or regulations changing laws or enforcement presently in force. Delay occasioned thereby shall not be considered a breach of these Terms and Conditions.

16 Export Law Compliance.

16.1 Products sold to Buyer may be controlled by U.S. export laws. Buyer agrees to comply with all rules and regulations mandated by the U.S. Government that govern exports or otherwise pertain to export controls, including, without limitation, the International Traffic In-Arms Regulations (ITAR) and the Export Administration Regulations (EAR).

16.2 In the event any Product under the Order is restricted for export under the ITAR or EAR rules and regulations, the export of the Products purchased under the Order shall be contingent upon obtaining an export license or other authorization, as required, from either the U.S. Department of State or U.S. Department of Commerce as appropriate. If any required U.S. export license or other authorization is not issued or is withdrawn, the Order may be terminated by either Party on thirty (30) days written notice, and Buyer will pay Fairchild Imaging's costs of performance through the effective date of termination of the Order.

17 Corrupt Practices Prohibition. Buyer certifies and represents that it has not made or solicited, and will not make or solicit, any offer, payment, promise to pay, or authorization to pay any money, gift, or anything of value to any governmental official or any political party, party official, or candidate, or to any employee or other representative of Fairchild Imaging, either directly or through an intermediary, to illegally influence any official act, omission, or exercise of influence by the recipient, in order to assist Fairchild Imaging or Buyer in obtaining or retaining business that includes a Fairchild Imaging Product.

18 No Distribution or Representation.

18.1 Buyer agrees and certifies that it will not represent Fairchild Imaging and therefore shall not act as a manufacturer's representative.

18.2 Buyer agrees and certifies that it (i) is an Original Equipment Manufacturer ("OEM") or Value Added Reseller ("VAR") and (ii) will not purchase the Products from Fairchild Imaging for distribution of any kind without the prior expressed written consent of Fairchild

Imaging. For these Terms and Conditions, (i) to be considered an OEM, a Buyer must install the Product into a next assembly product, and (ii) to be considered a VAR, a Buyer must pair the Product with another product.

19 Compliance with Laws. Buyer agrees to comply with all applicable laws, codes, and regulations of the United States and of the country of destination (including export laws and regulations) and assumes the responsibility for providing and installing any and all devices for the protection of safety and health relative to the Products.

20 Titles and Headings. The headings to the Sections of this Terms and Conditions are inserted for convenient reference only and will not be considered a part of this Terms and Conditions.

21 Notices. All notices provided for in these Terms and Conditions will be directed to each Party at the address set forth on the Order. All notices shall be in writing and shall be sent by United States mail (if domestic delivery), commercial overnight delivery service, electronic mail, or facsimile transmission. Notices sent by United States Mail shall be sent by first class mail, registered or certified, postage prepaid, and shall be deemed to have been given on the date actually received or the fifth day after mailing, whichever is earlier. Notices sent by commercial overnight delivery service shall be sent using a service that provides traceability of packages and shall be deemed given on the date of receipt. Notices sent by electronic mail or facsimile transmission shall be deemed given on the first business day after the date they are transmitted, provided a confirming signed original is mailed within one business day. Buyer's notice address shall be as set forth on the quotation or similar document. Fairchild Imaging's notice address is:

Fairchild Imaging, Inc.	Attn: Doug Humphrey
1841 Zanker Road	Phone: 408 406 7438
Suite 50	Email: dhumphrey@fcimg.com
San Jose, California 95112 USA	

Either Party may change its designated points of contact upon written notice to the other Party.

22 Severability. If any of the provisions of these Terms and Conditions shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, that portion shall be severed, and a new enforceable provision shall be negotiated by the Parties and substituted therefore to accomplish the intent of the severed provision as nearly as practicable. The remaining provisions of these Terms and Conditions shall remain in full force and effect, so long as the absence of the severed provision does not frustrate the purpose of these Terms and Conditions.

23 Survival. Expiration or termination shall not affect, and shall be without prejudice to, the rights and obligations of the Parties established prior to the Termination Date. In addition to the Sections which were specifically identified as to survive, the Parties agree those Sections which should survive termination or expiration of these Terms and Conditions shall survive termination or expiration of these Terms and Conditions. The specific listing of a Section to survive does not make it more or less favored to survive than the other Sections that should survive, but simply that it is to survive.

24 Counterfeit Product Notice. Counterfeit products may be improperly offered by others complete with counterfeit exterior

packaging, part numbers, and other auxiliary materials. These counterfeit products are of an inferior quality or performance. There is a high risk that the use of these counterfeit products can lead to a reduction of product life and reliability, including product failure. Fairchild Imaging will not be liable to any party for any Claim resulting directly or indirectly from the use of any counterfeit product. To avoid the inadvertent purchase of counterfeit products, please be sure to purchase directly from Fairchild Imaging or through our authorized distributors and sales representatives.

25 Limitation of Liability.

25.1 IN NO EVENT SHALL FAIRCHILD IMAGING BE LIABLE TO BUYER OR BUYER'S CUSTOMERS FOR ANY PRODUCT LIABILITY CLAIMS.

25.2 EXCEPT FOR (i) INDEMNIFICATION OBLIGATIONS AND LIABILITIES, (ii) CONFIDENTIALITY AND NON-DISCLOSURE OBLIGATIONS AND LIABILITIES, INCLUDING, WITHOUT LIMITATION, THOSE CONTAINED IN ANY NON-DISCLOSURE OR CONFIDENTIALITY AGREEMENT BETWEEN THE PARTIES, AND/OR (iii) LIABILITY FOR FRAUD, PERSONAL INJURY, OR DEATH CAUSED BY ITS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES UNDER ANY PART OF THE ORDER, EVEN IF ADVISED OR AWARE OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A PARTY ASSERTS OR ESTABLISHES A FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THE ORDER, REGARDLESS OF WHETHER SUCH DAMAGES ARISE OUT OF BREACH OF AGREEMENT, WARRANTY, CONTRACT, NEGLIGENCE, OR TORT. REGARDLESS OF THE FORM (e.g., CONTRACT, TORT, OR OTHERWISE) IN WHICH ANY LEGAL OR EQUITABLE ACTION MAY BE BROUGHT. THIS SECTION WILL NOT APPLY ONLY WHEN AND TO THE EXTENT THAT APPLICABLE LAW SPECIFICALLY REQUIRES LIABILITY DESPITE THE FOREGOING DISCLAIMER, EXCLUSION, AND LIMITATION.

25.3 EXCLUDED DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF USE OF THE PRODUCTS OR ANY ASSOCIATED EQUIPMENT, DAMAGE TO ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE PRODUCTS OR SUBSTITUTE FACILITIES, DOWN TIME COSTS, BUSINESS INTERRUPTION, OR CLAIMS OF THE OTHER PARTY'S CUSTOMERS FOR SUCH DAMAGES, REGARDLESS OF WHETHER SUCH DAMAGES ARISE OUT OF BREACH OF ORDER, WARRANTY, CONTRACT, OR TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL THEORY, EVEN IF A PARTY HAS BEEN ADVISED OF, KNEW OF, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

25.4 EACH PARTY'S CUMULATIVE LIABILITY (IF ANY) TO THE OTHER FOR ALL CLAIMS OF DIRECT DAMAGE OF ANY KIND RESULTING FROM EACH PARTY'S PERFORMANCE OR BREACH OF THE ORDER OR ACCEPTANCE, OR FROM THE PRODUCTS SUPPLIED TO BUYER, SHALL NOT EXCEED A FORMULA THAT EQUATES TO THE EQUIVALENT OF THE PRICE OF THE PRODUCT(S) OR SERVICE(S) WHICH IS (ARE) THE SUBJECT OF A CLAIM.