**ASSIGNMENT OF INTELLECTUAL PROPERTY RIGHTS**

This is an Assignment of Intellectual Property Rights (the “Agreement”) and takes effect on [DATE],

**BETWEEN: [YOUR COMPANY NAME]** (The "Company"), a company organised and existing under the laws of the [COUNTRY], with its head office located at:

 [YOUR COMPLETE ADDRESS]

**AND: [SUPPLIER NAME]** (The "Supplier"), a company organised and existing under the laws of the [COUNTRY], with its head office located at:

 [COMPLETE ADDRESS]

WHEREAS [SPECIFY] (the “[SPECIFY] Agreement”), and

WHEREAS

# DEFINITIONS

Where a term does not appear in the Agreement, the definition below shall have no application. In the event of a conflict between the definition of a term in the Agreement and the definition stated below, the definition below shall govern.

## “Affiliate” means, with respect to any Party, any other Person who is affiliated with such Party, and for the purposes hereof:

### [NUMBER] Persons will be considered to be affiliated with one another if [NUMBER] of them controls the other, or if both of them are controlled by a common third party;

### [NUMBER] Person will be considered to control another Person if it has the power to direct or cause the direction of the management and policies of the other Person, whether directly or indirectly, through [NUMBER] or more intermediaries or otherwise, and whether by virtue of the ownership of shares or other equity interests, the holding of voting rights or contractual rights, or otherwise; and

### in the case of Company, “Affiliate” shall include [SPECIFY COMPANY NAME].

## “Agreement” means this Agreement and all Specific Terms, Annexures or Documents attached thereto, which have been agreed to by the Parties from time to time.

## “Company” means the [YOUR COMPANY] and each of its Affiliates and Subsidiaries.

## “Business Day” means any day other than a Saturday, Sunday or [COUNTRY] statutory holiday.

## “Encumbrance” includes a mortgage, charge, pledge, hypothec, lien or security interest of any kind.

## “Fees” means Fees paid to Supplier under the [SPECIFY] Agreement.

## “Infringement Claim” means all notices, demands, claims, actions, proceedings, suits, judgments, orders and awards of any kind which allege or adjudicate that: a) any conception, design, manufacture, assembly, testing, repair, use, sale, licensing, offer for sale or for license, importation, exportation or any distribution or offer for distribution of any Design(s); or b) any conception, design, use, practice, delivery, licensing, offer for delivery or for license, or any distribution or offer for distribution of any Service(s); or c) any inducing, procuring, contributing, authorising, aiding or abetting *in re*lation to any of the acts set out in a) or b) above; whether in [COUNTRY] or abroad, directly or indirectly infringes, violates or misappropriates any Intellectual Property Right.

## “Intellectual Property Right” means any right in or to a [COUNTRY] or foreign patent, patent application, utility model, inventor’s certificate, copyright, moral right, trade-mark, trade name, service mark, trade secret, know-how, confidential information, mask work or integrated circuit topography, industrial design or other intellectual property right of any kind, whether or not registered or registerable.

## “Modification” includes any translation, abridgement, condensation, revision, correction, improvement, enhancement, customization, expansion, addition, Update, Upgrade or other modification to a Design.

## “Party” or “Parties” means SUPPLIER or the Company, or SUPPLIER and the Company collectively as the context requires.

## “Person” or “person” includes an individual, company, partnership, joint venture, trust, unincorporated organisation, government or any agency or instrumentality thereof or any other entity recognised by law.

## “Subsidiary” shall have the meaning ascribed to it under the [SPECIFY ACT], as amended.

## “Use” means any act which, would constitute an exercise of an Intellectual Property Right including, without limitation, to exploit commercially, modify, copy, translate, create derivative works, sublicense and distribute.

# ASSIGNMENT

## Assignment

In consideration of the Payment, by Company, of the Fees, the sufficiency and receipt of which is hereby acknowledges by Supplier, Supplier hereby expressly and irrevocably assigns and transfers to Company all rights, including, without limitation, all Intellectual Property Rights, in and to the design attached as Annexure [SPECIFY] hereto (the “Design”) performed by Supplier pursuant to this Agreement.

## Waiver of Moral Rights

Supplier hereby expressly and irrevocably waives, and represents that it has obtained from any employee or any other person who has provided services to or on behalf of Supplier *in re*spect of the Design and will obtain from any other person who will provide services to or on behalf of Supplier *in re*lation to the Design provided to Company by Supplier under this Agreement, an express and irrevocable waiver in favour of Company of, any and all moral rights arising under the *Copyright Act* ([TERRITORY/COUNTRY]) as amended (or any successor legislation of similar force and effect) or under similar legislation in other jurisdictions or at common law that Supplier and such persons, as authors, have with respect to the Design(s), including, without limitation, the right to attribution of authorship, the right to restrain any distortion, mutilation or other modification of the work and the right to prohibit any use of the work in association with a Design, service, cause or institution that might be prejudicial to such individuals’ honour or reputation.

## Intellectual Property Rights.

For greater certainty, but without otherwise limiting these Specific Terms:

* + 1. Company shall have the right to protect, or seek any protection of, Intellectual Property Rights in and to the Design;
		2. Supplier hereby agrees that it shall not:
1. use or claim any Intellectual Property Rights in the Design; or
2. produce any other design which is substantially similar to the Design developed for Company pursuant to this Agreement; and
	* 1. The company and any person authorised by Company shall be exclusively entitled to Use the Design, or any part or parts thereof, without any restriction,

# TERM

The term of this Agreement, including the assignment and waiver made hereunder, shall be deemed to have been made and to have come into force and effect as of the Effective Date set forth at the beginning of this Agreement.

# REPRESENTATIONS AND WARRANTIES

Supplier represents and warrants to Company, and acknowledges Company’s reliance upon such representations and warranties, that:

## The supplier has all rights, power and authority required in order to enter into and perform its obligations under this Agreement and to grant the Intellectual Property Rights in the Design free and clear of all encumbrances, in accordance with this Agreement;

## There is no requirement for Supplier representative to obtain any other authorisation, consent or approval from Supplier as a condition to the enforceability of any provision of this Agreement or the lawful conclusion of the transactions contemplated by this Agreement.

## This Agreement has been duly authorised, executed and delivered by Supplier representative;

## The Design is of original development and do not infringe upon or violate any laws or regulations or any rights of third parties, including, but not limited to, infringement or misappropriation of Intellectual Property Rights, defamation or invasion of privacy or publicity rights.

# INFRINGEMENT INDEMNITY

## Indemnification by Supplier

 Subject to Section 4.3, Supplier shall:

### forthwith indemnify and hold Company and each of its Subsidiaries and Affiliates and their respective directors, officers, employees, licensees, agents and other representatives harmless from and against all costs, losses and expenses of any kind including, without limitation, fines, penalties, disbursements, awards of damages, profits, delivery up or destruction, interest, litigation costs, settlement payments, attorney's or patent agent’s fees and expert’s fees, and costs associated with any rework, redesign, Design return, order cancellation, licence or other contract termination, field recall or inventory purge resulting from or relating to any Infringement Claim brought against Supplier or against [COMPANY NAME], or any of their respective Subsidiaries, Affiliates, officers, directors, employees, licensees, agents and other representatives as and when said costs, losses and expenses are suffered or incurred by Company; and

### at Supplier's sole and entire expense, fully investigate, defend and settle all Infringement Claims brought against Supplier or against Company, or any of their respective Subsidiaries, Affiliates, officers, directors, employees, licensees, agents and other representatives;

provided, in each case, that Company promptly notifies Supplier of any such Infringement Claim of which Company becomes aware. Company shall, upon Supplier's written request, use its reasonable commercial efforts to provide Supplier with such information and assistance as Supplier may reasonably require for the purpose of investigating, defending or settling every such Infringement Claim. Supplier shall reimburse Company for all costs associated with such assistance.

## Responsibility for defence and Settlement of Claims

Supplier shall have sole control of the defence and settlement Infringement Claims. However, [COMPANY NAME] may nevertheless retain counsel and participate at its own expense in the defence or settlement of any Infringement Claim at its sole option, without in any way reducing or displacing the obligations of Supplier hereunder. Supplier shall not accept any settlement of any Infringement Claim without Company’s prior written.

# GENERAL TERMS AND CONDITIONS

## Scope

This Agreement sets forth the general terms and conditions which shall govern the relationship between Company and Supplier.

## Further Assurances

Each Party agrees that it shall do or cause to be done all such acts and execute or cause to be executed all such further documents as are within its power to cause the doing or execution of as may be necessary or desirable to give effect to this Agreement.

## Time of Essence

Time shall be of the essence hereof.

## Assignment

Supplier agrees that this Agreement and any of Supplier’s obligation or interest herein may not be assigned or transferred without the express written consent of Company, which consent shall not be unreasonably withheld.

## Independent Contractors

This is an agreement between separate legal entities and neither is the agent or employee of the other for any purpose whatsoever. The Parties do not intend to create a partnership or joint venture between themselves. Neither Party shall have the right to bind the other to any agreement with a Person or to incur any obligation or liability on behalf of the other Party.

## General Interpretation

Headings and titles in this Agreement are for convenience of reference only and shall not affect the construction or interpretation hereof. Words in the singular include the plural and vice-versa and words in one gender include all genders. The terms “including” and “includes” shall be deemed to be followed by the statement “without limitation” and neither of such terms shall be construed to limit any word or statement it follows to the specific or similar terms or matters immediately following it.

## Invalidity

If any provision contained in this Agreement is found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, it shall be deemed severed from this Agreement and the remaining provisions contained herein shall not be in any way affected or impaired thereby.

## Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the [Country] of [COUNTRY/COUNTRY] and the federal laws of [COUNTRY] applicable therein, excluding those provisions relating to conflicts of laws and excluding the UN Convention on Contracts for the International Sale of Goods if applicable. The Parties hereby irrevocably attorn to the jurisdiction of the Courts of the Province of [COUNTRY/COUNTRY] or the Federal Court of [COUNTRY] sitting in such province.

## Waiver

A term or condition of this Agreement can be waived or modified only by written consent of both Parties. No failure or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.

## Entire Agreement

The Parties agree that this Agreement, including any attached Specific Terms and Annexures, constitutes the complete and exclusive statement of the terms and conditions between them covering the performance of the Agreement. Any representation, warranty or condition, written or otherwise, not expressly contained in this Agreement or in an authorised written amendment thereto shall not be enforceable by either Party. Each of the Parties acknowledges that it has not been induced to enter into this Agreement by any representations not specifically stated herein. This Agreement supercedes all expressly inconsistent representations, whether oral or written, of the Parties pertaining to the subject matter of the Agreement. Each Party acknowledges that it has read and understands this Agreement and agrees to be bound by its terms.

## Force Majeure

Neither Party shall be liable for delay or failure in performance resulting from acts beyond the control of such Party, including, but not limited to acts of God, acts of war, riot, fire, flood, or other disaster, acts of government, strike lockout or communication line or power failures. Performance times shall be extended for a period of time equivalent to the period of delay provided that in the event that Supplier is delayed by reason of such cause, no extension shall be made unless written notice of such delay and any resulting effects is provided by Supplier to Company.

## Use of Name

Supplier shall not use Company’s name or refer to Company in any advertising or marketing literature without prior written approval of Company.

This Agreement takes effect (“the Effective Date”) when signed by Supplier and Company.

# COMPANY SUPPLIER

Authorised Signature Authorised Signature

Print Name and Title Print Name and Title