

## SALES TERMS AND CONDITIONS

All sales made by Ingram Micro Inc. ("Ingram Micro") to its customers with Ingram Micro U.S. resale accounts ("Purchaser") are subject to these terms and conditions. Purchaser's acceptance of these terms and conditions shall be made by either (i) Purchaser providing a purchase order number to Ingram Micro or (ii) Purchaser's acceptance of any Product from Ingram Micro, whichever occurs first. These terms and conditions shall apply to sales of all products and services described in Ingram Micro's current comprehensive product listing including Special Order Product except as otherwise specified ("Product"). The term "Special Order Product" as used herein shall mean products that are not listed in Ingram Micro's current comprehensive product listing or have been configured to Purchaser's specifications.

### 1. ORDERING

Prior to placing an order, Purchaser must have an active Ingram Micro sales account number and Purchaser's account must be current and in good standing. Purchaser must provide Ingram Micro with complete Product order information as required by Ingram Micro. The Product order information will include without limitation the (i) Product description, (ii) unit quantity, (iii) Ingram Micro SKU number and/or vendor part number, (iv) current unit price as provided by Ingram Micro, and (v) correct shipping address. For government or educational orders, Purchaser will provide the above Product order information as well as (i) end user name and zip code and (ii) government or educational contract number. Purchaser personnel will identify, for each Product order, the ship-to destination as either Purchaser, Purchaser's customer, or to some other specified third party. Ingram Micro reserves the right to require additional information based on the requirements of the manufacturer or publisher of the Product. Purchaser, on behalf of itself and the party for whom the Product is purchased, consents to the transfer of Purchaser's and said party's email addresses, when such transfer is required to complete a sales transaction. Purchaser shall not disclose any confidential information when ordering from Ingram Micro. Purchaser may place orders over telephone, via facsimile, and via Ingram Micro-approved electronic ordering methods only through persons who identify themselves as Purchaser personnel and provide their Ingram Micro customer number prior to placing the order. Ingram Micro will have no obligation to confirm the validity of any order placed or the authority of the person placing an order in this manner. Purchaser bears all risk of unauthorized purchases by third parties using Purchaser's account number. Ingram Micro's acceptance of any order from Purchaser is limited to these terms and conditions in their entirety without addition, modification, or exception. Any additional or different terms in Purchaser's purchase order or submitted by Purchaser in any form are hereby deemed to be material alterations hereto and notice of objection to them is hereby given. All orders below the applicable minimum order value are subject to additional fees. Orders for direct shipment to Purchaser's customers or Special Order Products may require prepayment and may be subject to additional fees. Ingram Micro will have no obligation to hold Product for future sale to Purchaser if Purchaser's order is incomplete, on hold, or if Purchaser does not confirm it within 48 hours of notification from Ingram Micro that backordered Product is available for shipment. All Products sold to Purchaser hereunder are for resale only. Additional fees may apply.

All Product pricing, description and availability information ("Information") provided by Ingram Micro, in any form, is the property of Ingram Micro. Ingram Micro hereby grants Purchaser a limited, non-exclusive, non-transferable license to use the Information for Purchaser's internal use only for purposes of Purchaser's sales and purchases of Products sold by Ingram Micro. If Ingram Micro provides Information to Purchaser electronically, Purchaser agrees to update such Information regularly to ensure its accuracy. Purchaser agrees to hold in confidence and not to directly or indirectly use, reveal, report, publish, disclose or transfer to any other person or entity any of the Information or utilize the Information for any purpose except as permitted herein.

### 2. PRICE

All prices are subject to change without notice and will be established at time of order acceptance by Ingram Micro. Order acceptance and sale by Ingram Micro occurs at time of shipment. Prices for backordered Products are not guaranteed. Additional fees may apply in accordance with Ingram Micro's policies in effect on the date of shipment.

### 3. SHIPMENT AND DELIVERY

**A. U.S. Shipments** - All Product shipments will be made FOB origin. For Products owned by Ingram Micro, title and risk of loss will transfer to Purchaser upon Ingram Micro tendering the Product for delivery to the carrier. Ingram Micro will ship Products using Ingram Micro's carrier of choice in accordance with Ingram Micro's shipping policies at the time of shipment. Additional fees and charges may also apply. If Purchaser requests Ingram Micro prepay and bill Purchaser for freight charges, Purchaser agrees that Ingram Micro retains the right to choose the carrier. Purchaser shall examine all Products upon receipt and shall notify Ingram Micro, as specified herein, of all discrepancies and refusal to accept delivery of purchased Product. Such notice shall be reasonably detailed and explain the discrepancy or why the purchased Product was refused. If Purchaser does not give Ingram Micro such notice as stated herein, Purchaser agrees that such Products have been accepted by Purchaser as of the date of shipment.

**B. International Shipments** - All shipments by Ingram Micro to Purchaser or Purchaser's customers at an address outside of the United States or the District of Columbia are subject to additional terms and will not be made unless Purchaser and Ingram Micro have entered into Ingram Micro's International Fulfillment Agreement (IFA). Under certain

circumstances, Ingram Micro may choose to ship Product to Purchasers located at an address outside of the United States or the District of Columbia. These shipments will be made FCA, Ingram Micro's warehouse via Ingram Micro's carrier of choice. Title and risk of loss will transfer to Purchaser upon Ingram Micro tendering the Product for delivery to the carrier. Purchaser will bear all the costs related to shipment and delivery. Purchaser shall examine all Products promptly upon receipt and shall notify Ingram Micro of all discrepancies or if rejection is intended within five (5) calendar days after receipt. Such notice shall be reasonably detailed and shall specify the discrepancy or reason for rejection. Failure to give such notice within such time shall be deemed an acceptance of the Products as of the date of shipment. If the approval of any government or governing organization is required with respect to these terms and conditions or the distribution of the Products including without limitation, giving legal effect to these terms and conditions, protecting intellectual property and other rights in the Products or compliance with exchange regulations, Purchaser will, at its expense, immediately take whatever steps may be necessary to secure such approvals. If any such approval requires or results in the deletion or amendment of any provision of these terms and conditions, then Ingram Micro will have the right to immediately terminate these terms and conditions.

#### **4. CREDIT AND PAYMENT TERMS**

Purchaser shall furnish to Ingram Micro all financial information reasonably requested by Ingram Micro from time to time for the purpose of establishing or continuing Purchaser's credit limit. Purchaser agrees that Ingram Micro shall have the right to decline to extend credit to Purchaser and to require that the applicable purchase price be paid prior to shipment. Purchaser shall promptly notify Ingram Micro of all changes to Purchaser's name, address, or of the sale of substantially all of its assets. Ingram Micro shall have the right from time to time, without notice, to change or revoke Purchaser's credit limit on the basis of changes in Ingram Micro's credit policies or Purchaser's financial condition and/or payment record. Purchaser shall not deduct any amounts owing from any Ingram Micro invoice without Ingram Micro's express written approval, which approval shall be contingent upon Purchaser providing all supporting documentation for such deduction as required by Ingram Micro. A service charge of the lesser of one and one-half percent (1 ½%) per month or the maximum amount allowed by law will be charged on all past due balances commencing on the date payment is due. Credit cards (MasterCard, VISA and Discover Card) will only be accepted at the time of order. No cash payments will be accepted. Payment by money orders or travelers check will be allowed only if the money order or travelers check is made out in the exact amount of the invoice; payment of one invoice through multiple money orders or travelers checks will not be permitted. Additional restrictions regarding third-party payments apply to Purchasers located in Colombia, Panama, or Venezuela. Ingram Micro retains (and Purchaser grants to Ingram Micro by submitting a purchase order) a security interest in the Products to secure payment in full, and Purchaser agrees to execute any additional documents necessary to perfect such security interest. If Purchaser fails to make timely payment of any amount invoiced hereunder, Ingram Micro shall have the right, in addition to any and all other rights and remedies available to Ingram Micro at law or in equity, to immediately revoke any or all credit extended, to delay or cancel future deliveries and/or to reduce or cancel any or all quantity discounts extended to Purchaser. Purchaser shall pay all costs of collection including reasonable attorneys' fees. Any obligation of Ingram Micro under these terms and conditions to deliver Products on credit terms shall terminate without notice if Purchaser files a voluntary petition under a bankruptcy statute, or makes an assignment for the benefit of creditors, or if an involuntary petition under a bankruptcy statute is filed against Purchaser, or if a receiver or trustee is appointed to take possession of the assets of Purchaser.

#### **5. TAXES**

Purchaser shall bear applicable federal, state, municipal, and other government taxes (such as sales, use, etc.). Unless otherwise specified, prices do not include such taxes. Exemption certificates, valid in the place of delivery, must be presented to Ingram prior to shipment if they are to be honored; provided however, in the instance of sales of certain services, licenses, or the like, if by law or regulation any jurisdiction does not issue exemption certificates, Purchaser agrees that it shall be responsible for determining such exemption and non-issuance and for notifying Ingram Micro of such in writing, including any documentation that the jurisdiction may issue in lieu of an exemption certificate. If it is subsequently determined that notwithstanding a representation by Purchaser, Ingram Micro is liable for such taxes, Purchaser shall defend and indemnify Ingram Micro from any and all liability associated with such taxes, including any and all interest, penalties and attorneys' fees including non-attorney professional fees associated therewith.

#### **6. WARRANTY**

Product warranties, if any, are provided by the manufacturer or publisher of the Products. INGRAM MICRO MAKES NO WARRANTIES, EITHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE WHATSOEVER. ALL INFORMATION IS PROVIDED TO PURCHASER "AS IS."

#### **7. PRODUCT RETURNS**

**A. Requirements** - Purchaser must obtain a valid Return Material Authorization ("RMA") number from Ingram Micro for all returns. RMAs will be issued, at Ingram Micro's sole discretion, in accordance with these terms and conditions. Purchaser must provide its account number and all other information as required by Ingram Micro for all returns. RMAs are valid for twenty (20) calendar days from the date of issuance. Purchaser must allow for in-transit time for Products to be returned to Ingram Micro, as Ingram Micro must physically receive Products within the twenty (20) calendar days. RMAs will be issued for authorized returns under one of the following categories: (i) defective Products, (ii) stock

balancing, (iii) billing or shipping discrepancies, or (iv) damaged Product. Purchaser is responsible for ensuring that the RMA number is clearly visible on the address label of the Product packaging when it is returned to Ingram Micro. Ingram Micro will refuse delivery of any boxes without a valid, clearly visible RMA number as noted above. Overgoods are unauthorized returns. Any Products received by Ingram Micro (i) without a valid RMA number, including Product shipments refused by Purchaser or Purchaser's customer except those damaged in transit from Ingram Micro to Purchaser or from Ingram Micro to Purchaser's customer, (ii) later than twenty calendar (20) days from the RMA date, or (iii) in a condition unsuitable for resale (excluding defective Products), will be considered Overgoods. Ingram Micro will return Overgoods to Purchaser or Purchaser's customer, and will charge Purchaser a \$50 processing fee per shipment plus related freight charges. If Purchaser refuses the shipment of Overgoods from Ingram Micro or returns the Overgoods to Ingram Micro a second time without Ingram Micro's prior authorization, Purchaser agrees to relinquish all right and title to and waives all claims against Ingram Micro for credit related to such Products. Notwithstanding anything to the contrary, Ingram Micro reserves the right not to authorize the return of Products that are no longer in production or are being produced or published by a manufacturer or publisher that (i) is insolvent, (ii) has declared bankruptcy, or (iii) will not accept returns from Ingram Micro.

**B. Defective Product Returns** - Defective returns are only for Products purchased from Ingram Micro that are inoperable or do not function in accordance with the specifications published by the manufacturer or publisher and are covered under the manufacturer's or publisher's warranty. All defective returns are subject to more restrictive manufacturer or publisher policies. Purchaser may request an RMA for the return of defective Products, excluding Special Order Products, within forty-five (45) calendar days of invoice date. Purchaser's defective returns will be limited to a maximum of 15% of the value of Purchaser's Product purchases within the same vendor code as the defective Product during the forty-five (45) calendar days prior to the RMA date, less any prior defective returns during that period. Upon receipt of the defective Product for which the RMA was issued, Ingram Micro may test the Products and may return to Purchaser, at Purchaser's expense, any Products found not to be defective. Upon verification that the returned Product is defective, Ingram Micro may, at Ingram Micro's sole discretion, either (i) ship Purchaser a replacement Product, or (ii) provide Purchaser a credit equal to the lesser of the Product's invoice price or current replacement value less any applicable charges or fees. Ingram Micro reserves the right to require Purchaser to return defective Products directly to the manufacturer or publisher for replacement according to its defective Products return policy. Ingram Micro shall not be obligated to repair, replace, or issue credit to Purchaser for Products rendered defective, in whole or in part, by causes external to the Products, including, but not limited to, catastrophe, power failure or transients, overvoltage on interface, environment extremes, improper use, maintenance or application of the Products or use of unauthorized parts. Purchaser shall bear all risks of loss when returning defective Products.

**C. Stock Balance Returns** - Stock balance returns are only for Products purchased from Ingram Micro that are unopened and unused and can be re-sold as new. All stock balance Products returned must be in the manufacturer's original packaging and in condition suitable for resale including, but not limited to, without price tags or stickers or additional shrink wrapping, clean, undamaged and complete ("Stock Balance Condition"). All stock balance returns are subject to more restrictive manufacturer or publisher policies. Purchaser may request an RMA for the return of Products in Stock Balance Condition, except for Special Order Products, within ninety (90) calendar days of invoice date. Purchaser's stock balance returns will be limited to a maximum of 15% of the value of Purchaser's Product purchases within the same vendor code as the Product to be returned during the ninety (90) calendar days prior to the RMA date, less any prior stock balance returns during that period. Upon receipt of the Product for which the RMA was issued, Ingram Micro will verify the condition of the Product. Any Products that are not in Stock Balance Condition will be considered Overgoods. Ingram Micro will return Overgoods to Purchaser and will charge Purchaser a \$50 processing fee per shipment returned to Purchaser plus related freight charges. Additional fees may apply to returned Products; e.g., re-box, label removal, re-shrink, etc., that are not in Stock Balance Condition. Upon verification that the returned Product is in Stock Balance Condition, Ingram Micro will issue a credit to Purchaser equal to the lesser of the Product's invoice price or current replacement value less any applicable charges or fees. If Ingram Micro elects to restore returned Product to Stock Balance Condition instead of returning it to Purchaser, the credit to Purchaser will be net of Ingram Micro's costs to return the Product to Stock Balance Condition. Purchaser shall pay all costs and bear all risks of loss when returning Products to Ingram Micro.

**D. Damaged Product Returns** - Damaged Product returns are only for Products purchased from Ingram Micro and shipped via Ingram Micro's carrier of choice that are damaged in transit from Ingram Micro to the Purchaser or from Ingram Micro to the Purchaser's customer. Purchaser or Purchaser's customer shall refuse any Product delivered in damaged condition. If the Product is received in damaged condition, Purchaser shall notify Ingram Micro and request an RMA within three (3) business days of receipt of such Product. Failure to notify Ingram Micro and request an RMA within such time shall be deemed an acceptance of the Product as of the date of shipment.

## **8. BILLING AND SHIPPING DISCREPANCIES**

Billing and shipping discrepancies are for Products purchased from Ingram Micro that were invoiced or shipped incorrectly. These include lost shipments, short shipments, wrong sales, wrong shipments and pricing/invoice errors. Purchaser may request an RMA for verified billing and shipping discrepancies within thirty (30) calendar days of invoice date. In addition, Purchaser must notify Ingram Micro of any billing discrepancies related to Purchaser's authorized returns within ninety (90) calendar days of RMA date. Such notice shall be reasonably detailed and shall specify the

discrepancy. Failure to give such notice within the time specified herein shall be deemed a waiver of Purchaser's rights to claim such discrepancy.

#### **9. PATENT AND TRADEMARK INDEMNITY**

INGRAM MICRO SHALL HAVE NO DUTY TO DEFEND, INDEMNIFY, OR HOLD HARMLESS PURCHASER FROM AND AGAINST ANY OR ALL DAMAGES AND COST INCURRED BY PURCHASER ARISING FROM THE INFRINGEMENT OF PATENTS OR TRADEMARKS OR THE VIOLATION OF COPYRIGHTS BY PRODUCTS. INGRAM MICRO WILL BEAR NO LIABILITY TO PURCHASER OR ANY THIRD PARTY RELATED TO, AND PURCHASER WILL INDEMNIFY AND DEFEND INGRAM MICRO AND ITS SUPPLIERS AGAINST, ANY CLAIM BASED UPON THE COMPLIANCE BY INGRAM MICRO OR INGRAM MICRO'S SUPPLIER WITH DESIGNS, SPECIFICATIONS, OR INSTRUCTIONS PROVIDED BY PURCHASER.

#### **10. LIMITATION OF LIABILITY**

PURCHASER AGREES THAT THE LIABILITY OF INGRAM MICRO FOR DIRECT DAMAGES RELATED TO ANY PRODUCT ARISING UNDER THESE TERMS AND CONDITIONS, WHETHER IN CONTRACT, TORT, OR OTHERWISE, WILL NOT EXCEED THE NET AMOUNT PAID TO INGRAM MICRO BY PURCHASER FOR THAT PRODUCT WHICH IS THE SUBJECT OF THE CLAIM.. IN NO EVENT WILL INGRAM MICRO BE LIABLE TO PURCHASER OR ANY OTHER PARTY FOR INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO LOSS OF GOOD WILL, LOSS OF ANTICIPATED PROFITS, OR OTHER ECONOMIC LOSS ARISING OUT OF OR IN CONNECTION WITH INGRAM MICRO'S BREACH OF, OR FAILURE TO PERFORM IN ACCORDANCE WITH ANY OF THESE TERMS, OR THE FURNISHING, INSTALLATION, SERVICING, USE OR PERFORMANCE OF ANY PRODUCTS OR INFORMATION INGRAM MICRO MAY PROVIDE, EVEN IF NOTIFICATION HAS BEEN GIVEN AS TO THE POSSIBILITY OF THOSE DAMAGES AND PURCHASER EXPRESSLY WAIVES ANY AND ALL CLAIMS FOR THOSE DAMAGES.

#### **11. COMPLIANCE WITH U.S. EXPORT LAWS**

If Purchaser delivers the Products to its customer who may use the Products outside the United States, Purchaser acknowledges and shall advise its customer that the Products are controlled for export by the U.S. Department of Commerce and that the Products may require authorization prior to export from the United States or re-export. Purchaser agrees that it will not export, re-export, or otherwise distribute Products, or direct products thereof, in violation of any export control laws or regulations of the United States. Purchaser warrants that it will not export or re-export any Products with knowledge that they will be used in the design, development, production, or use of chemical, biological, nuclear, or ballistic weapons, or in a facility engaged in such activities, unless Purchaser has obtained prior approval from the Department of Commerce. Purchaser further warrants that it will not export or re-export, directly or indirectly, any Products to embargoed countries or sell Products to companies or individuals listed on the Denied Persons List published by the Department of Commerce.

#### **12. RELATIONSHIP OF THE PARTIES**

Purchaser's relationship with Ingram Micro will be that of an independent contractor. Purchaser will not have, and will not represent that it has, any power, right or authority to bind Ingram Micro, or to assume or create any obligation or responsibility, express, implied or by appearances, on behalf of Ingram Micro or in Ingram Micro's name, except as herein expressly provided. Nothing stated in these terms and conditions will be construed as constituting Purchaser and Ingram Micro as partners or as creating the relationships of employer/employee, franchisor/franchisee, or principal/agent between the parties. Purchaser will make no warranty, guarantee or representation, whether written or oral, on Ingram Micro's behalf.

#### **13. LEGAL COMPLIANCE AND ANTI – CORRUPTION**

Ingram Micro and Purchaser agree to abide by all laws and regulations applicable to the performance of their respective obligations under these terms and conditions. Purchaser has not made, and will not make, any direct or indirect payment, offer to pay, or authorization to pay, any money, gift, promise to give, or authorization of the giving, of anything of value to any government official, or the immediate family of any such official, for the purpose of influencing an act or decision of the government or such individual in order to assist, directly or indirectly, Purchaser in obtaining or retaining business, or securing an improper advantage.

#### **14. RESTRICTIONS**

All Products delivered to Purchaser hereunder may have additional restrictions on their use, including those specified by the manufacturer or publisher. Purchaser is solely responsible for ensuring its adherence to any and all such restrictions and requirements and agrees to hold Ingram Micro harmless from all costs, fees, expenses, and liability arising from Purchaser's direct or indirect violation of same.

#### **15. CHOICE OF LAW/CHOICE OF FORUM**

These terms and conditions (and any agreement into which they are incorporated) shall be construed, interpreted and enforced under and in accordance with the internal laws of the State of California, excluding its conflicts or choice of law rule or principles which might refer to the law of another jurisdiction. Purchaser agrees to exercise any right or remedy in connection with these terms and conditions exclusively in, and hereby submits to the jurisdiction of the State of

California, Courts of Orange County, California, or the United States District Court at Santa Ana, California. The state and federal courts situated in Orange County, California will have non-exclusive jurisdiction and venue over any dispute or controversy that arises out of these terms and conditions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to these terms and conditions.

## 16. NOTICES

All notices, requests, demands, and other communications that either party may desire to give the other party must be in writing and may be given by (i) personal delivery to an officer of the party, (ii) mailing the same by registered or certified mail, return receipt requested, or via nationally recognized courier services to the party at the address of such party as set forth herein, at the official corporate address of such party, or such other address as the parties may hereinafter designate, or (iii) facsimile subsequently to be confirmed in writing pursuant to item (ii) above. Notices to Ingram Micro shall be sent to: Ingram Micro Inc., 1600 E. St. Andrew Place, Santa Ana, CA 92705, Attn: Legal Department.

## 17. MANAGED SERVICES AND CLOUD SERVICES

With respect to managed services and cloud services purchased from Ingram Micro only, the following terms in this Section 17 are supplemental to the terms and conditions:

**A. Use of Subcontractors.** Ingram Micro will use its own employees and/or subcontractors to provide services. Designation and management of employees and subcontractors will be at Ingram Micro's sole discretion, and use of subcontractors will not require Purchaser's consent.

**B. Use of Services.** Purchaser agrees to indemnify and hold Ingram Micro harmless from any liability, costs or damages arising out of claims or suits by third parties who have received the right to access the services.

**C. Security.** Should Purchaser's or Purchaser's customer's data be lost directly due to the gross negligence or willful misconduct of Ingram Micro or Ingram Micro's subcontractors, Ingram Micro will use commercially reasonable efforts, at its expense, to assist the affected Purchaser or Purchaser's customer to restore the affected data; provided, however, that Ingram Micro's obligations pursuant to this sentence are subject to the affected Purchaser or Purchaser's customer maintaining practices and standards used in well-managed operations with regard to the backup of their respective data and the use of corporate enterprise quality anti-virus and virus protection tools with regard to Purchaser's and Purchaser's customer's. This shall be Ingram Micro's sole obligation, and Purchaser's exclusive remedy, with respect to such loss of data.

**D. Warranty.** INGRAM MICRO DOES NOT WARRANT THAT THE SERVICES, EXCEPT AS SET FORTH IN THE SERVICE DESCRIPTION, WILL MEET PURCHASER'S OR PURCHASER'S CUSTOMER'S REQUIREMENTS OR THAT USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. PURCHASER ASSUMES THE RESPONSIBILITY TO TAKE ADEQUATE PRECAUTIONS AGAINST DAMAGES TO ITS OPERATIONS OR ITS CUSTOMER'S OPERATIONS WHICH COULD BE CAUSED BY DEFECTS, INTERRUPTIONS, OR MALFUNCTIONS IN THE SERVICES.

**E. Limitation of Liability.** PURCHASER AGREES THAT THE LIABILITY OF INGRAM MICRO FOR DIRECT DAMAGES RELATED TO ANY MANAGED SERVICES OR CLOUD SERVICES ARISING UNDER THESE TERMS AND CONDITIONS, WHETHER IN CONTRACT, TORT, OR OTHERWISE, WILL NOT EXCEED THE NET AMOUNT PAID TO INGRAM MICRO BY PURCHASER FOR THOSE SERVICES WHICH ARE THE SUBJECT OF THE CLAIM DURING THE SIX MONTH PERIOD IMMEDIATELY PRECEDING THE DATE UPON WHICH THE CLAIM AROSE.

## 18. GENERAL

**A. Publicity.** Except for any announcement intended solely for internal distribution by either party or any disclosure required by legal, accounting, or regulatory requirements, all media releases, public announcements, or public disclosures, including but not limited to promotional or marketing material, by either party or its employees or agents relating to these terms and conditions, the relationship between Ingram Micro and Purchaser, or including the marks of the other party or any affiliate of that party, must be approved in writing by the other party prior to release.

**B. Force Majeure.** Ingram Micro will not be liable for any delay or for failure to perform any obligation under these terms and conditions resulting from any cause beyond Ingram Micro's or its subcontractor's reasonable control, including but not limited to: Purchaser's or Purchaser's customers' failure to timely supply necessary data, information or specifications; any changes in data, information or specifications made by Purchaser or Purchaser's customer; third party equipment manufacturer design defects, flaws or errors; acts of God; Internet blackouts or brownouts; severe weather; fire; explosions; floods; strikes; work stoppages; slowdowns or other industrial disputes; accidents; riots or civil disturbances; acts of war, sabotage or terrorism; dangerous conditions which present a threat to the safety or health of Ingram Micro or its subcontractor's personnel; acts of government; inability to obtain any license or consent necessary in respect of any third party software; and delays by suppliers or material shortages. Scheduled performance dates shall be extended for these causes.

**C. Attorney's Fees.** If there is any dispute concerning these terms and conditions or the performance of either party pursuant to these terms and conditions, and either party retains counsel for the purpose of enforcing any of these terms and conditions or asserting these terms and conditions in defense of any suit filed against it, each party will be solely responsible for its own costs and attorney's fees incurred in connection with the dispute irrespective of whether or not a lawsuit is actually commenced or prosecuted to conclusion.

**D. Assignment.** Neither party may assign its rights and/or duties under these terms and conditions without the prior written consent of the other party given at the other party's sole option. Any attempted assignment without that consent will be void. Notwithstanding the foregoing, Ingram Micro may assign any purchase order received from Purchaser to a Ingram Micro subsidiary or affiliate upon notice to Purchaser.

**E. Interpretation.** If any provision of these terms and conditions is held to be invalid, illegal or unenforceable, that provision will be enforced to the fullest extent permitted by applicable law and the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired. Failure or delay of Ingram Micro to exercise a right or power under these terms and conditions will not operate as a waiver, nor will any single or partial exercise of a right preclude any other future exercise of that right. The captions used in these terms and conditions are for reference purposes only and will have no effect upon the construction or interpretation of any provisions. These terms and conditions, as published on Ingram Micro's Web site located at [www.ingrammicro.com](http://www.ingrammicro.com) at the time of sale, are the official terms and conditions of sale between Ingram Micro and Purchaser and may be amended from time to time without notice at Ingram Micro's sole discretion.