CYPRESS PURCHASE ORDER
TERMS AND CONDITIONS OF PURCHASE

1. **ACCEPTANCE.** The terms and conditions of the Purchase Order ("Order") becomes the exclusive and binding agreement between Cypress ("Buyer") and Seller covering the purchase of the products or services herein when this order is acceptable by acknowledgement and/or commencement of performance by Seller. ADDITIONAL OR DIFFERENT TERMS PROPOSED BY SELLER WILL NOT APPLY UNLESS ACCEPTED IN WRITING BY BUYER. ACCEPTANCE OF THE PRODUCTS OR SERVICES DELIVERED UNDER THIS ORDER SHALL NOT CONSTITUTE ACCEPTANCE OF SELLER'S TERMS AND CONDITIONS. No change, modifications or revision of this Order shall be effective unless an authorized representative of Buyer signs Seller's written changes.
2. **PRICES.** Seller warrants that the prices charged for product or services identified on the face hereof are not in excess of prices charged to other customers similar quantities and delivery requirements. If Seller decreases the price for products or services identified in this Order, Seller will automatically reduce the price of any Buyer's unshipped product or service by a comparable percentage of the time of the price decrease.
3. **INVOICES.** Invoices shall be submitted to the address shown on the face of this purchase and shall include the following information: purchase order number, product number, description of products, sizes, quantities, unit prices, and extended totals, and any applicable taxes in addition to any other information specified elsewhere herein. Bill of Lading or express receipt shall accompany each invoice. Payment of invoice shall not constitute acceptance of product and shall subject to adjustment for errors, shortages, defect in the products or other failure of Seller to meet the requirements of the order. Buyer may at any time set off any amount owed by Buyer to Seller against any amount owed by Seller or any of its affiliated companies to Buyer.
4. **TAXES AND EXPENSES.** The prices set forth in this purchase order do not include any applicable Foreign, Federal, State and local taxes or miscellaneous charges such as duties, customs, tariffs, imports and surcharges. All such taxes and charges shall be itemized separately on Seller's invoice.
5. **OVERSHIPMENT.** Buyer reserves the option to return at Seller's expense any shipment of the products either in excess of the amount stated on the face of this order, or on advance of the agreed upon schedule. Such shipment will be held at Seller's risk and expense including reasonable storage charges while awaiting shipping instructions. Return shipping charges for excess quantities will be at Seller's expense. Material for which return shipping instructions are not received within a reasonable time, maybe destroyed or sold by Buyer at public or private sale and the proceeds, if any, applied toward storage charges.
6. **PACKING AND SHIPMENT.** Unless otherwise specified, when the price of this order is based on the weight of the ordered products, such price is to cover net weight of products ordered only and no charge will be allowed for boxing, crating, drayage, storage or the packing requirements or any allowance for damage in connection with foregoing. Unless otherwise specified, all products shall be packed packaged, marked, and otherwise prepared for shipment in a manner which is (i) in accordance with good commercial practice, (ii) acceptable to common carriers for shipment at the lowest rate

for the particular products and (iii) adequate to ensure safe arrival of the products at the named destination and for storage and protection against weather. Seller shall mark all containers with necessary lifting, handling and shipping information and also, purchase order numbers, date of shipment and the names of the consignee and consignor. An itemized packaging sheet must accompany each shipment unless otherwise specified and must be located on the outside of the first box or crate of the shipment. No partial or complete deliver shall be made hereunder prior to the dates shown unless Buyer has given prior when written consent.

7. WARRANTY.

(a) Seller warrants that all products delivered hereunder, including all components and raw materials incorporated therein, as well as products corrected under the warranty, shall be free from defects of workmanship, materials and manufacture, shall comply with the requirements of this contracts, including compliance with any drawings or specifications incorporated herein to any samples furnished by Seller, and where design in Seller's responsibility, be free from defects in design. Seller further warrants all products purchased hereunder shall be of merchantable quality and shall be fit and suitable for the purposes intended by Buyer. The foregoing warranties are in addition to all other warranties, whether expressed or implied, and shall survive any delivery, inspection, acceptance, or payment by Buyer.

(b) If any products delivered hereunder do not meet the warranties specified herein or otherwise applicable, Buyer may at its election (i) require the Seller to promptly correct, at no cost to Buyer, or any defective or nonconforming products by repair or replacements at the location specified by Buyer, or (ii) return such defective or nonconforming products at Seller's expense to the Seller, and recover from the Seller the order price and shipping costs thereof. If, after being requested by Buyer, the Seller fails to promptly replace or correct any defective product, Buyer (i) may by contact or otherwise replace or correct such products and charge to the Seller the cost occasioned thereby, or (ii) may, without further notice, terminate this order for default in accordance with the clause thereof entitled "Termination", or (iii) may utilize the deficient product and require an appropriate reduction in price. The foregoing remedies are in addition to all other remedies at law or in equity or under this order, for damages or otherwise, and shall not be deemed to be exclusive. All warranties shall run to the Buyer and to its customers.

(c) Buyer's approval of the Seller's products or design shall not relieve Seller of the warranties set forth in this clause, nor shall not waiver by Buyer of any drawing or specification requirement for one or more of the products constitute a waiver of such requirement for remaining products to be delivered hereunder unless so stated by Buyer in writing. The provisions of this clause shall not limit or affect the rights of Buyer under the clause hereof entitled "Inspection".

(d) Claims by Buyer under this warranty maybe exercised anytime within a minimum period of one year after final acceptance unless specifically agreed otherwise in writing.

8. **INSPECTION.** All products purchased hereunder shall be subject to inspection and test by Buyer to the extent practicable at all times and places during and after the period of manufacture and in the event, prior to final acceptance. If inspection or test is made by Buyer on Seller's premises, Seller without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of Buyer's inspectors. No inspection or test made prior to final acceptance shall relieve the Seller from responsibility for defects or under failure to meet the requirement of this order.
9. **CHANGES.** The Buyer may at any time, by a written order, and without notice to sureties or assignees, suspend performance hereunder. Increase or decrease ordered quantities, or make changes in any or more of the following (a) applicable drawings, designs or specifications; (b) method of shipment or packing, and/or (c) place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for the performance of this order, n equitable adjustment shall be made in the order price or delivery schedule, or both, and he order shall be modified accordingly. No claim by the Seller or adjustment hereunder shall be valid unless asserted in writing accompanied by an estimate costs, within twenty (20) days from the receipt of the Seller of the notification of changes and, in any event, Seller must submit its final claim in writing with supporting documentation within the net succeeding twenty (20) day period. Failure of the Seller to either (a) assert a claim within twenty (20) days, or (b) submit a final claim within the next succeeding twenty (20) days as provided above, shall constitute an unconditional and absolute waiver by the Seller of any right to make a claim for adjustment. Buyer reserves the right to verify claims hereunder and Seller shall make available to Buyer, upon its request, all relevant books, records, inventories and facilities for its inspection and audit.
10. **TERMINATION.**
    (a) It is agreed and understood that time is of the essence under this order or any extension thereof affected by any change order. Buyer may, by written notice, terminate this order in whole or in part if the Seller falls (i) to make delivery of the products or to perform the services within the time specified therein, or any extension thereof by written change order or amendment, or (ii) replace or correct defective products in accordance with the provision of those clauses hereof entitled " Warranty" and " inspection", or (iii) to perform any of the provisions of this order or to so fail to make progress as to endanger performance in accordance with the terms hereof, including delivery schedules, or (iv) if Seller becomes insolvent, admits in writing its inability to pay its debts as they mature, files a voluntary petition in bankruptcy, makes an assignment for the benefit of creditors or if the petition of any bankruptcy laws is filed against it.
    (b) In the event of the termination pursuant to his clause, Buyer may procure upon Such term and in such manner as Buyer may deem appropriate, products or services similar or substantially similar to those so terminated and Seller shall be liable to Buyer for any excess cost occasioned thereby, provided that in the event that Buyer elects to terminate only a portion of this order, then in such event Seller shall continue the performance of his order to the extent not terminated.
    (c) If this order is terminated pursuant to paragraph (a) Buyer in addition to any rights provided herein, may require the Seller to transfer title and deliver to Buyer, in the manner, time and to the extent directed by Buyer, (i) any

completed products and (ii) such partially completed products and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights as the Seller has produced or acquired for the performance of the terminated part and (iii) Seller shall grant Buyer a royalty-free, assignable, non-exclusive license to use and other license to use Seller designs, processes, drawings and technical data, substantially retailing to the quantity of the products terminated hereunder. Seller upon direction of Buyer, protect and preserve property encompassed in this paragraph in the possession of Seller. Payment for completed products delivered to and accepted by Buyer shall be in amount agreed upon by the Seller and Buyer, however, such amount shall not exceed the order price per unit and Seller's obligation hereunder to carry out Buyer's direction as to delivery protection and preservation shall not be contingent upon prior agreement as to such amount.

(d) failure of Buyer to enforce any right under this clause shall not deemed a waiver of any right hereunder, The rights and remedies of the Buyer under this clause shall not be exclusive and are addition to any rights and remedies provided by law or under this order.

11. CANCELLATION.

(a) Buyer may cancel order placed with the provisions of this purchase Order Subject to the following restrictions :

(i) Standard Product. Cancellation of the standard product (resellable in its original) without charge back requires notice to Seller thirty (30) days or more to the scheduled ship date.

(ii) Nonstandard Product Or Custom Product. Cancellation of Nonstandard or Custom product without charge back or requires written notice to the Seller sixty (60) days or more prior to the scheduled ship date.

(b) In the event cancellation notice requirements are not met, Seller shall immediately stop work. For Standard Product so cancelled, Buyer will be liable for restocking charge equal to the 10 % of the Purchase price for the product cancelled. For Nonstandard Product, Buyer will be liable for all reasonable costs incurred or committed for raw materials and work in process that cannot be diverted to other sale or use by Seller. Seller agrees to divert raw materials, work in process and completed materials from canceled orders to other requirements wherever possible in order to minimize cancellation charges. Payment of cancellation charges shall be due within thirty (30) days of the date of receipt written cancellation from the Seller.

(c) Seller's cancellation claims shall consist solely of the following:

(i) For completed products accepted by Buyer but not yet paid for, an amount determined by multiplying the number of such products by the unit price therefore as specified in this order, and

(ii) The total cost of work in process, not to exceed the average unit cost multiplied by the number of units in process, provided however, that such number of units in process shall not exceed that amount which has been previously placed on firm release by Buyer. (d) In no event shall Seller be entitled to incidental or consequential damages, anticipated or projected profits, costs of

preparing claims, attorney's fees, costs of tooling or equipment or sales or agents commissions on the terminated product.

(d) Buyer reserves the right to verify claims hereunder and Seller shall make available to Buyer upon its request, all relevant books, records, inventories and facilities for its inspection and audit. In the event Seller fails to reasonably afford Buyer its rights hereunder, the Seller shall be deemed to have relinquished any claim asserted under the provisions of this clause.

12. **WAIVER.** The failure of Buyer to enforce at any time any of the provisions of this order, or to exercise any election or option provided herein, or to require at any time performance by the Seller of any of the provisions hereof, shall in no way constitute to be a waiver of such provisions, not in any way to affect the validity of this order or any part thereof, or the right of Buyer thereafter to enforce each and every such provision.
13. **ENCUMBRANCES; INDEMNIFICATION.** All products supplied must be free from claims of others with respect to royalties, patent rights and mechanics' liens or other encumbrances or charges. Seller agrees to indemnify and hold harmless the Buyer against all claims demands, costs and actions for actual or alleged infringements or misappropriations of patent, copyright, trademark, trade secret, or other intellectual property rights in the use, sale or resale of said products.
14. **COMPLIANCE WITH LAWS.** (a) Seller warrants that no governmental law, rule or ordinance of any Country has been violated in the manufacture or sale of the products or in the performance of services covered by this order, and will defend and hold Buyer harmless from loss, cost or damage as a result of any such actual or alleged violation. Upon written request by Buyer, Seller agrees to execute and furnish a certification of compliance, which may be on Buyer's form and which shall certify compliance with any applicable Foreign, Federal, State or Local Laws or Regulations. Reseller shall conduct its business in accordance with the applicable laws and customs of each country in the Territory. (b) Seller shall also comply with the applicable laws and requirements of the United States, including without limitation, the requirements of
    (i) the United States Foreign Corrupt Practices Act,
    (ii) the United States Export Administration Act, 50 U.S.C.A. Section 2401 et seq. and the regulation promulgated thereunder (including the Export Administration Regulations and the United States Anti-Boycott Regulations, 15 C.F.R. Section 768 et seq.),
    (iii) the War Powers Act and other laws or Executive Order relating to control of exports or transfer of technology, in each case in their present form or as they may be amended in the future.

15. **GRATUITIES.** Seller warrants that it has not offered or given and will not offer or give to any employee, agent or representative of Buyer any gratuity with a view toward securing any business from Buyer or influencing such person with respect to the terms, conditions or performance of any contract with or order from Buyer. Any breach of this warranty shall be a material breach of each contract between Buyer and Seller.
16. **NONDISCLOSURE OF CONFIDENTIAL MATTER AND PUBLICITY.** Products purchased pursuant to Buyer's specifications or drawings shall not be quoted for sale to others without the Buyer's prior written authorization. Such specifications, drawings, samples, or other data furnished by the Buyer shall be treated as confidential information by the Seller, shall remain Buyer's property and shall be promptly returned to Buyer upon

request. Any publicity regarding this order (pictures, descriptions or samples thereof) is prohibited except with Buyer's prior written approval.

17. **ASSIGNMENTS AND SUBCONTRACTS.** Neither party shall assign, transfer or subcontract its rights or obligations under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, neither party will require the other party's consent to assign this Agreement in its entirety (but not less than in its entirety) to any of its Affiliates or to any party who acquires substantially all of the assets of the assigning party to which this Agreement relates. Any prohibited assignment, transfer or subcontract shall be void.

18. **BUYER-FURNISHED PROPERTY.** All tools or other materials furnished by the Buyer for use in the performance of this order shall remain the property of the Buyer (or of the Government, as the case may be), shall be used by the Seller in the performance of this order only, in accordance with the requirements of the order relating to such use, and shall be returned to the Buyer when requested upon the completion or termination of the order to the extent not previously delivered to the Buyer. Seller agrees to exercise reasonable care in the safeguarding and preservation of all Buyer-furnished property and assumes all responsibility for loss, damage or destruction while such property is within its possession or control.

19. **PATENT LICENSE.** The Seller, as part consideration for this purchase order and without further cost to the Buyer, hereby grants and agrees to grant to the Buyer and to the extent requested by the Buyer, to the Government, an irrevocable, transferable, worldwide, non-exclusive, royalty-free right and license to import, have imported, use, sell, offer for sale and otherwise distribute and exploit products embodying any and all inventions and discoveries made, conceived or actually reduced to practice in connection with the performance of this purchase order.

20. **FORCE MAJEURE.** Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its fault or negligence, including, without limitation, acts of God, acts of civil or military authority, embargoes, strikes, work stoppages, war, riots, fires, explosions, delays by suppliers, shortages of parts or materials, power failures, or communication line interruptions. Upon any delay described in this section, the time for performance by the party affected by a Force Majeure event shall be extended for a period equal to the time lost by reason of the delay.

21. **NOTICE.** All notices required hereunder shall be in writing and shall be deemed to have been duly given if

(i) delivered by hand;
(ii) mailed by registered or certified mail;
(iii) sent by air courier; or
(iv) sent by cable, telex or facsimile, followed within twenty-four (24) hours by notification pursuant to (i), (ii) or (iii) above, in each case to the address first set forth below, or to such other address as a party may specify for itself by written notice hereunder. All such notices shall be effective upon receipt and addressed as follows:

To Buyer at:

198 Champion Court
San Jose, CA 95134
Attn: Vice President Procurement

OR

Gateway Business Park
Special Export Processing Zone
Bgy Javalera, Gen Trias
Cavite City, Philippines

To Seller at: The address as appearing on the face side of this purchase order.

22. **SEVERABILITY.** If any of the provisions of this Agreement shall be or become invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the remaining provisions of this Agreement. Instead, this entire Agreement shall be construed as though not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the parties shall be construed and enforced accordingly.

23. **LIMITATION OF LIABILITY.** Buyer's liability for breach of this purchase order shall not exceed the purchase price of the products or services ordered herein giving rise to the liability. IN NO EVENT SHALL BUYER BE LIABLE TO THE OTHERPARTY OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES WHATSOEVER, WITHOUT REGARD TO CAUSE OR THEORY OF LIABILITY (INCLUDING, WITHOUT LIMITATION, DAMAGES INCURRED BY THE OTHER PARTY OR SUCH THIRD PARTY FOR LOSS OF BUSINESS PROFITS OR REVENUE, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION OR OTHER PECUNIARY LOSS) ARISING OUT OF THIS ORDER, EVEN IF BUYER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

24. **APPLICABLE LAW.** This Agreement shall be governed by and construed under the laws of the State of California, without regard to conflict of law principles or the UN convention on contracts for the international sale of goods. The parties consent to personal and exclusive jurisdiction of and venue in the state and Federal courts within Santa Clara Country, California.

25. **ARBITRATION.** Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules currently in force. The number of arbitrators shall be three; the place of arbitration shall be in the County of Santa Clara, California, or such other place in the United States as the parties may mutually agree; the appointing authority shall be the American Arbitration Association; and the language to be used in the arbitral proceedings shall be English. The remedies set forth in this Agreement shall not be exclusive, but shall be in addition to such other legal and equitable remedies as the arbitrators determine to be appropriate.