

CXTEC TERMS AND CONDITIONS OF SALE

ALL ORDERS PLACED WITH CXTEC ("SELLER") ARE SUBJECT TO THESE TERMS AND CONDITIONS ("TERMS AND CONDITIONS"), UNLESS SUPERCEDED BY A MASTER AGREEMENT SEPARATELY EXECUTED BETWEEN THE PARTIES ("AGREEMENT"), AND ALL ADDITIONAL TERMS AND CONDITIONS PRESENTED ON OR ACCOMPANYING A SELLER QUOTE OR RELATED DOCUMENT. SALE OF ANY PRODUCTS OR SERVICES BY SELLER IS EXPRESSLY CONDITIONED ON BUYER'S ASSENT TO THESE TERMS AND CONDITIONS. NO TERM OR CONDITION CONTAINED IN BUYER'S PURCHASE ORDER OR SIMILAR DOCUMENT WILL APPLY UNLESS AGREED UPON BY SELLER, EVEN IF SELLER HAS ACCEPTED THE ORDER SET FORTH IN SUCH PURCHASE ORDER, AND ALL SUCH TERMS OR CONDITIONS ARE OTHERWISE HEREBY EXPRESSLY REJECTED BY SELLER. NO MODIFICATION OR CLAIMED WAIVER OF ANY PROVISION HEREIN SHALL BE VALID EXCEPT BY WRITTEN AMENDMENT SIGNED BY AN AUTHORIZED REPRESENTATIVE OF SELLER. THESE TERMS AND CONDITIONS REPRESENT THE ENTIRE AGREEMENT OF THE PARTIES AS TO ANY ORDER PLACED BY BUYER AND ACCEPTED BY SELLER ("ACCEPTED ORDER"), EXCEPT WHERE SELLER HAS AGREED TO OTHER OR ADDITIONAL TERMS AND CONDITIONS IN WRITING BY ITS AUTHORIZED AGENT.

1. ACCEPTANCE. All orders are subject to credit approval and written (either printed or electronic) acceptance or acknowledgement by Seller at Seller's home office, in its sole discretion, regardless of the location of Buyer or Seller's sales representative.

2. PRICE. Errors or omissions in price are subject to correction. Prices are quoted as determined by Seller in US dollars (USD) and will remain open for the time period specified in each Quotation. Freight, customs fees, tariffs, VAT, duties, freight forwarder fees, consular fees, taxes, however designated and all other costs after shipment are Buyer's obligations. Seller will bill Buyer for all applicable taxes, unless Buyer provides an exemption certificate, and provided that, if Seller is not registered to collect and remit sales and/or use taxes in the jurisdiction where product is shipped at Buyer's request, then Buyer hereby agrees that it shall pay and remit all applicable VAT, sales and/or use taxes to the proper taxing authority and shall indemnify Seller from any liability related to the payment, underpayment or nonpayment thereof.

3. PAYMENT. All payments shall be made in US Dollars via check, ACH or other electronic means agreed between the Parties. Unless otherwise agreed to in writing by Seller, payment terms are net thirty (30) days from the date of Seller's invoice. All invoices will be rendered electronically as shipments are made, Seller shall not be responsible for providing hard copies of invoices, shipping receipts or any other documentation to Buyer. Credit card charges will be subject to the current market fees. Seller may impose late charges of 1.5% per month, or the maximum permitted by law, on all outstanding balances. Seller reserves the right by written notice to cancel any Accepted Order or require full or partial payment or adequate assurance of performance from Buyer without liability to Seller in the event of: (i) Buyer's insolvency, (ii) Buyer's filing of a voluntary petition in bankruptcy, (iii) the appointment of a receiver or trustee for Buyer or (iv) the execution by Buyer of an assignment for the benefit of creditors.

4. SHIPMENT/SERVICE. Shipment and service dates are estimated in good faith but are not guaranteed by Seller. After an order is accepted, Buyer may not change shipment and services dates without Seller's written consent. Seller will not be held liable for any late delivery charges. Shipments will be made F.O.B. origin prepaid and add, Syracuse,

New York or such other location as Seller shall select. Accepted Orders may be tendered in partial shipments at Seller's discretion.

5. FORCE MAJEURE/DELAYS IN DELIVERY. Except for each Party's payment obligations hereunder, neither Party shall be liable for a failure to perform to the extent that the delay or failure was caused by an event beyond such Party's reasonable control, which events may include natural disasters, epidemics, pandemics, quarantines, embargoes, explosions, riots, government action, wars, acts of terrorism or acts of God (each, a "Force Majeure Event"). Each Party shall use commercially reasonable efforts to ensure that the effects of any Force Majeure Event are minimized and resume full performance under these Terms and Conditions as soon as practicable.

6. TITLE, RISK OF LOSS AND INSURANCE. Title, risk of loss and insurance responsibilities pass to Buyer upon delivery of products by Seller to a shipping agent or carrier.

7. CANCELLATIONS AND CHANGES.

(a) Cancellation of any Accepted Order, in whole or in part, is subject to Seller's receipt of Buyer's written notice of such cancellation prior to any product being shipped or released for shipment. In the event of any such cancellation, Buyer shall be responsible for any reasonable costs and expenses (including, without limitation, expenses and commitments to Seller's suppliers and subcontractors) incurred by Seller prior to Seller's receipt of the cancellation notice. Notwithstanding the foregoing, Orders for custom, special or non-standard products and/or services, as well as any third-party Original Equipment Manufacturer's (each an "OEM") products and services not cancellable under such OEM terms and conditions, are final and non-cancelable.

(b) Seller reserves the right to cancel an Accepted Order in whole or in part if, in Seller's judgment, Buyer's financial condition does not justify the terms of payment specified.

(c) Each party may at any time propose changes to an Accepted Order. Seller is not obligated to proceed with any change until both parties agree upon such change in writing. The written change documentation will describe changes in Product type, quantity and schedule for delivery, and the resulting changes in price and other provisions, as agreed.

(d) It shall be acceptable and not considered a change if Seller delivers a Product that bears a different, superseding or new part or version number compared to the part or version number listed in the Accepted Order.

8. INSPECTION. Seller, or its representative, will inspect products prior to shipment in accordance with its normal practices.

9. EXPORT LICENSES AND PERMITS.

(a) Seller warrants that it is in compliance with applicable U.S. export regulations. Buyer shall be responsible for procuring all applicable import licenses and complying with all import regulations.

(b) Buyer acknowledges that the export, re-export, or import into any other country of commodities, technical data, or software ("Controlled Items") purchased from Seller is subject to the export/import control laws and regulations of the U.S. as well such laws from other applicable countries (collectively the "Export/Import Laws and Regulations"), and Buyer warrants that it shall notify Seller if it intends to re-export or re-sell Controlled Items. Buyer shall comply with all Export/Import Laws and Regulations. Buyer certifies that it will not directly or indirectly export, re-export, transmit, or cause to be exported, re-exported

or transmitted, any Controlled Items to any country, individual, corporation, organization, or entity to which such export, re-export, or transmission is restricted or prohibited, including any country, individual, corporation, organization, or entity under sanctions or embargoes administered by the U.S. Departments of State, Treasury or Commerce, the European Union, or any other applicable government authority. Buyer certifies that it will not use any Product purchased from Seller in relation to nuclear, biological or chemical weapons or missile systems capable of delivering same or the development of any weapons of mass destruction. Buyer certifies that it is not an embassy, agency or subdivision of a non-U.S. government. Seller reserves the right to require Buyer to sign an Export Statement of Assurance, and to provide further details regarding Buyer's intentions for the Products (including final destination, intended end use and intended end user) prior to shipment. Buyer's failure to provide such assurance and information upon request may result in Seller's cancellation of any pending Quote or Order.

(c) Buyer acknowledges that it is Buyer's responsibility to obtain any license to export, re-export, import into any other country, or transmit any Controlled Items as may be required under any applicable export/import control laws or regulations. Buyer shall not export, re-export, import to any other country, or transmit any Controlled Items except in accordance with all applicable laws, and regulations.

(d) Buyer shall not give any Foreign Person (including Buyer's own non-U.S. employees or affiliates) access to Technical Data, software or Defense Articles, or provide an unauthorized Defense Service as those terms are defined in the applicable Export/Import Laws and Regulations without the prior written consent of Seller. Any request for such consent must state the intended recipient's citizenship(s), and status under 8 U.S.C. 1101 and 8 U.S.C. 1324 (the "Immigration and Naturalization Act"), and such other information as Seller may reasonably request. No consent granted by Seller in response to Buyer's request under this paragraph 9(d) shall relieve Buyer of its obligations to comply with the provisions of this Article 9 or the Export Laws and Regulations, nor shall any such consent constitute a waiver of the requirements of this Article 9, nor constitute consent for Buyer to violate any provision of the Export Laws and Regulations.

(e) Buyer shall indemnify, defend and save harmless Seller from and against any and all damages, liabilities, penalties, fines, costs, and expenses, including reasonable attorneys' fees, arising out of claims, suit, allegations or charges of Buyer's failure to comply with the provisions of this Article 9 and breach of the acknowledgements and certifications set forth in paragraphs 9(b), (c) and (d). Any failure of Buyer to comply with the requirements or any breach of the acknowledgements and certifications contained in this Article 9 shall be a material breach of these Terms and Conditions.

10. PACKING. Products will be packed or packaged for shipment in accordance with Seller's standard commercial practices.

11. TECHNICAL DATA . All Seller's drawings, data, designs, tooling, equipment, procedures, engineering changes, inventions, and all other information, technical or otherwise which was developed, made or supplied by Seller in the sale of any product, or the performance of any service sold, rendered or licensed hereunder will be and remain the sole property of Seller and no license is implied by the sale.

12. U.S. GOVERNMENT CONTRACT PROVISIONS.

(a) This Article 12 applies only if an Accepted Order is for the direct or indirect sale to any agency of the U.S. government and/or is funded in whole or in part by any agency of the U.S. government.

(b) Buyer agrees that all Products and Services provided by Seller meet the definition of "commercial-off-the-shelf" ("COTS") or "commercial item" as those terms are defined in Federal Acquisition Regulation ("FAR") 2.101. To the extent the Buy American Act, Trade Agreements Act, or other domestic preference requirements are applicable to an Accepted Order, the country of origin of Products is unknown unless otherwise specifically stated by Seller in an Accepted Order. Buyer agrees any Services offered by Seller are exempt from the Service Contract Act of 1965 (FAR 52.222-41). Buyer represents and agrees that an Accepted Order is not funded in whole or in part by American Recovery Reinvestment Act funds unless otherwise specifically stated in an Accepted Order. The version of any applicable FAR clause listed in this Article 12 shall be the one in effect on the effective date of an Accepted Order.

(c) If Buyer is an agency of the U.S. Government, then as permitted by FAR 12.302, Buyer agrees that all paragraphs of FAR 52.212-4 (except those listed in 12.302(b)) are replaced with these Terms and Conditions. Buyer further agrees the subparagraphs of FAR 52.212- 5 apply only to the extent applicable for sale of COTS and/or commercial items and as appropriate for the price agreed to in an Accepted Order.

(d) If Buyer is procuring the Products or Services as a contractor, or subcontractor at any tier, on behalf of any agency of the U.S. Government, then Buyer agrees that FAR 52.212-5(e) or 52.244-6 (whichever is applicable) applies only to the extent applicable for sale of COTS and/or commercial items and as appropriate for the price agreed to in an Accepted Order.

13. ASSIGNMENT. Buyer shall not delegate any duties, nor assign any rights or claims under an Accepted Order, or for breach thereof, without Seller's prior written consent, any such attempted delegation or assignment shall be void. Seller may assign any rights, duties, or obligations herein, including under an Accepted Order, for any reason, including by way of merger, consolidation, restructuring, sale of assets or otherwise.

14. CONTINUOUS PERFORMANCE. Buyer shall not top, suspend or slow performance or payment under an Accepted Order because of any disputes between Seller and Buyer.

15. PRODUCT RETURNS. Immediately upon Buyer's receipt of any goods shipped hereunder, Buyer shall inspect the same and shall notify Seller in writing of any claims for shortages or damages. Each shipment shall be deemed irrevocably accepted five (5) business days following the date of delivery, unless notice is given pursuant to Seller's Product Return Policy in effect on the date of the return. See www.cxtec.com/CXtecProductReturnPolicy. The terms of this policy are incorporated into these Terms and Conditions as if set forth herein.

16. SERVICES.

(a) Buyer may order Services from or through Seller from time to time from one or more OEMs, including, but not limited to, extended warranty services, which are sold by Seller as a distributor or sales agent ("OEM Services").

(b) Buyer shall consider the OEM to be the contracting party for all OEM Services. The OEM shall be the party responsible for providing OEM Services to Buyer, and the OEM shall be solely responsible to Buyer for any loss, claims or damages arising from or related to the provision of such OEM Services. Buyer and Buyer's Affiliates (defined below) hereby release Seller and Seller's Affiliates (defined below) from any and all claims arising from or relating to the purchase or provision of any such OEM Services. Any amounts, including, but not limited to, taxes, associated with OEM Services which may be collected by Seller will be collected solely in the capacity as an independent sales agent. "Affiliate" means,

with respect to a party, an entity that controls, is controlled by, or is under common control with such party.

(c) The terms of any contract for Professional Services from Seller will be contained in these Terms and Conditions and one or more separate agreements (each, a "Related Agreement"), including but not limited to, a Statement of Work or Change Order. Each Statement of Work shall incorporate these Terms and Conditions and constitute a separate agreement with respect to the Services performed. Following the expiration of the initial maintenance service term (the "Initial Term"), this Order shall automatically renew for successive one (1) year periods (each a "Renewal Term" and, together with the Initial Term, the "Term") unless a party provides notice of non-renewal at least thirty (30) days prior to the expiration of the then current term. In the event of a conflict between any term or condition of the above referenced Agreements and these Terms and Conditions, the conflict will be resolved by giving precedence in the following order: (i) the Change Order; (ii) the Statement of Work; and (iii) these Terms and Conditions.

(d) Buyer shall perform any specific Buyer's duties set forth in any applicable Statement of Work, and Buyer further agrees to cooperate with Seller in connection with performance of the Services by providing: (i) timely responses to Seller's inquiries and requests for approvals and authorizations, (ii) access to any information or materials reasonably requested by Seller which are necessary or useful as determined by Seller in connection with providing the Services, including, but not limited to, physical and computer access to Buyer's computer systems, and (iii) all Required Consents necessary for Seller to provide the Services. "Required Consents" means consents or approvals required to give Seller, its Affiliates, and its and their subcontractors the right or license to access, use and modify all data and third-party products. Buyer acknowledges and agrees that the Services are dependent upon the completeness and accuracy of information provided by Buyer and the knowledge and cooperation of the agents, employees or subcontractors engaged or appointed by Buyer who are selected by Buyer to work with Seller.

(e) Seller will follow all reasonable Buyer security rules and procedures, as communicated in writing by Buyer to Seller from time to time.

(f) Seller, through its employees or representatives, may perform the Services at Buyer's place of business, at Seller's own facilities or any other location Seller and Buyer deem appropriate. When the Services are performed at Buyer's premises, Seller shall attempt to perform such Services within Buyer's normal business hours unless otherwise jointly agreed to by the parties. Buyer shall also provide Seller access to Buyer's facilities and staff and any other Buyer resources (and when the Services are provided at another location designated by Buyer, the staff and resources at such location) that Seller determines are useful or necessary for Seller to provide the Services. When the Services are provided on Buyer's premises or at another location designated by Buyer, Buyer agrees to maintain adequate insurance coverage to protect Seller and Buyer's premises and to indemnify and hold Seller and its representatives and Affiliates, and its and their agents and employees harmless from any loss, cost, damage or expense (including, but not limited to, attorneys' fees and expenses) arising out of any product liability, death, personal injury or property damage or destruction occurring at such location in connection with the performance of the Services, other than solely as a result of Seller's gross negligence or willful misconduct.

(g) When Product is procured from Seller in which Services will be performed prior to shipping to Buyer's location, Buyer shall accept ownership of all Product delivered to the Seller's facility at the time Seller's engineering resources begin Services as outlined in an executed Statement of Work. All Product will be invoiced to the Buyer at that time in

accordance with the Payment provisions referenced in Article 3 of these Terms and Conditions.

17. SETOFFS. Buyer shall have no right of setoff and shall have no right to self-help deductions against amounts due to Seller.

18. NO AUDITS. Buyer shall have no right to audit Seller's books and records, or to review Seller's financial statements, provided that Seller shall, upon reasonable request, provide Buyer with electronic information directly related to Buyer's account with Seller and Buyer's transactions with Seller for a period not to exceed the twelve (12) months prior to such request.

19. TERMINATION FOR CAUSE. Either party may terminate an individual Accepted Order upon the other party's material breach of these Terms and Conditions, provided that (a) the non-breaching party sends written notice to the breaching party describing the breach in reasonable detail, (b) the breaching party does not cure the breach within twenty (20) days following its receipt of such notice (the "Notice Period"), and (c) following the expiration of the Notice Period, the non-breaching party sends a second written notice to the breaching party indicating the non-breaching party's election to terminate the Accepted Order. In the event of any proceedings by or against Buyer in bankruptcy or insolvency, or for appointment of any receiver or trustee, or any general assignment for the benefit of creditors, Seller, in addition to any other remedy provided it by applicable law or in equity, or other right reserved to it elsewhere in these Terms and Conditions, and without any liability to Buyer on account thereof, and with or without terminating this Accepted Order, may withhold any further shipment(s) to Buyer; and Buyer shall be liable to pay to Seller any damages incurred by Seller as a result thereof. Buyer agrees that a breach by Buyer of any other agreement between Buyer and Seller, whether or not related to this Accepted Order or the goods sold hereunder, constitutes a material breach under this Accepted Order, thereby entitling Seller to assert all its rights and remedies hereunder.

20. LIMITED WARRANTIES.

(a) Seller does not manufacture all of the products it sells. If other manufacturers' product(s) and/or services are purchased by Seller and resold to Buyer then such product(s) and/or services will be limited to that manufacturers' warranty. Seller assumes no warranty liability for other manufacturers' product(s) and/or services furnished to Buyer.

(b) Seller provides a limited lifetime warranty on CABLExpress® products, a copy of this warranty is available at: www.cablexpress.com/CBXPWarranty and the terms of this warranty are incorporated into these Terms and Conditions as if set forth herein.

(c) Seller provides a lifetime warranty on CXtec's equal2new® products, a copy of this warranty is available at: www.cxtec.com/Equal2newLPWarranty and the terms of this warranty are incorporated into these Terms and Conditions as if set forth herein.

(d) No agent, distributor, or representative is authorized to make any warranties on behalf of Seller or to assume for Seller any other liability in connection with any Seller product or service, unless provided hereunder.

21. DISCLAIMER OF WARRANTY. Buyer understands and agrees as follows:

THE ABOVE WARRANTY REPLACES ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ALL OTHER WARRANTIES ARE DISCLAIMED, EXCLUDED AND REJECTED BY SELLER.

22. LIMITATION OF LIABILITIES.

(a) IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES OF ANY NATURE ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF SUCH PARTY HAS OR WILL HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING WILL APPLY REGARDLESS OF THE NEGLIGENCE OR OTHER FAULT OF EITHER PARTY AND REGARDLESS OF WHETHER SUCH LIABILITY ARISES IN CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR ANY OTHER THEORY OF LIABILITY.

(b) EXCEPT FOR DAMAGES RELATED TO A BREACH OF EITHER PARTY'S CONFIDENTIALITY OR INDEMNIFICATION OBLIGATIONS HEREIN, OR A PARTY'S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT, UNDER NO CIRCUMSTANCES WILL EITHER PARTY, ITS AFFILIATES AND/OR RELATED COMPANIES BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR AN AMOUNT GREATER THAN THE AGGREGATE AMOUNTS PAID OR PAYABLE HEREUNDER IN THE TWELVE (12) MONTHS PRECEDING ANY CLAIM. FOR CLAIMS ARISING FROM A BREACH OF EITHER PARTY'S CONFIDENTIALITY OR INDEMNIFICATION OBLIGATIONS HEREIN EACH PARTY'S TOTAL LIABILITY SHALL NOT EXCEED \$1,000,000 USD. THIS SECTION WILL APPLY REGARDLESS OF WHETHER SUCH LIABILITY ARISES IN CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR ANY OTHER THEORY OF LIABILITY, UNLESS OTHERWISE BARRED BY LAW.

23. INTELLECTUAL PROPERTY AND INDEMNIFICATION.

(a) Seller is not the owner of any patent, copyright, trademark or any other intellectual property related to Products manufactured by others that is sold hereunder and Seller does not transfer or grant any ownership right, license or any other right to use the intellectual property of others, unless otherwise provided in the manufacturer's terms and conditions.

(b) Seller disclaims all warranties related to the Intellectual Property and specifically disclaims any obligation or duty to indemnify, defend or hold harmless Buyer from and against any claim, liability, loss, damage, settlement, penalty, cost or expense made against or sustained by Buyer arising from any claim that Products sold hereunder infringe, misappropriate or violate any third party's intellectual property rights.

(c) The sale of Products, related software and/or provision of services hereunder does not convey any express or implied license under any patent, copyright, trademark or other proprietary rights owned or controlled by Seller, whether relating to the products sold or any manufacturing process or other matter. All rights under any such patent, copyright, trademark or other proprietary rights are expressly reserved by Seller.

(d) All contents of the Seller's website, advertising and marketing materials are protected by copyright and trademark laws. All rights reserved. For further information see: www.cxtec.com/LegalDisclaimer.

(e) Seller will defend any suit or proceeding brought against Buyer insofar as such suit or proceeding is based on a claim that the design or manufacture of products furnished hereunder which were manufactured by Seller solely to Seller's designs and specifications infringe any U.S. patent issued as of the date of shipment, provided Seller is promptly notified in writing of such suit or proceeding and is given full authority, information and assistance by Buyer for such defense. Seller will pay all damages and costs based on such claim of patent infringement which are finally awarded against Buyer in any such suit or proceeding or paid by way of settlement, but Seller shall have no liability whatsoever with respect to any settlement made by Buyer without Seller's prior written consent, which Seller may withhold in its sole discretion. If such products are held to infringe any U.S. patent and their use or sale is enjoined, or if in the opinion of Seller such products are likely to become the subject of such a claim of infringement, Seller may, in its sole discretion and at its own expense, either procure a license which will protect Buyer against such claim without cost to Buyer, replace such products with non-infringing products, or require return of such products and refund an equitable portion of the price paid by Buyer to Seller for such products. Seller shall have no obligation of indemnification for claims based on: (1) Buyer's misuse of Products or incorporation of Products sold hereunder in

any item produced or manufactured by Buyer or a third party; (2) Seller's design or manufacture of Products to specifications provided by Buyer; and/or (3) Buyer's Infringement of any third party's intellectual property rights.

(f) THE FORGOING PROVISIONS OF THIS SECTION 23 STATE THE SOLE AND EXCLUSIVE LIABILITY OF SELLER FOR PATENT, COPYRIGHT AND/OR TRADEMARK INFRINGEMENT AND IS IN LIEU OF ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, IN REGARD THERETO.

24. CONFIDENTIALITY.

(a) "Confidential Information" means any data or information in whatever form that is not generally known to the public that is disclosed or delivered by one party (the "Disclosing Party") to the other party (the "Receiving Party") in any manner, whether or not marked or designated as confidential. As used herein Confidential Information includes, without limitation, one or more of the following types of information: conversations, documents, data, reports, business plans, inventions, business proposals, pricing models, forms, financial information, contracts, trade secrets, customer lists, prospective customers, business forecasts, sales & marketing techniques, mailing lists, accounting and business methods, costs, product development, inventory, services, software, applications, computer systems, databases, flow charts, graphics, drawings, photographs, know-how, the identity of customers, suppliers and contractors, any information or arrangements pertaining to such customers, suppliers and contractors, training methods, testing & production procedures, company history, and any other similar or proprietary information relating to the Disclosing Party. Confidential Information shall include the information described in the preceding sentence however embodied.

(b) The Receiving Party agrees to hold the Confidential Information in strict confidence and will use such information only for the purpose of transacting business between Buyer and Seller. Receiving Party shall take all reasonable and necessary steps to guard against the unauthorized dissemination, use or disclosure of the Confidential Information and to handle the Confidential Information with the same degree of care used to protect its own Confidential Information, but in no event less than reasonable care.

(c) The Receiving Party shall not at any time or in any manner, either directly or indirectly, divulge, communicate, use, exploit or disclose the Confidential Information to any third party without written authorization from the Disclosing Party. All Confidential Information disclosed under this Agreement (including all copies thereof, and any information in computer software or held in electronic storage media), and any derivative works or improvements on or to the Confidential Information, is and shall remain the sole property of the Disclosing Party and shall be returned to the Disclosing Party, or destroyed at their option, promptly upon Disclosing Party's request and direction.

25. NO BUSINESS ASSOCIATE RELATIONSHIP. Any and all obligations of Seller to protect a Buyer's patients' rights or to maintain confidential and secure any protected health information (other than as outlined in Section 24 above) shall be governed by a separate Business Associate Agreement between the Parties. In no event shall an Accepted Order create a relationship between Seller and Buyer whereby Seller may be deemed a Business Associate of Buyer as that term is used in relation to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the related regulations. Nothing in these Terms and Conditions shall be construed to permit Seller to have access to, retain or use any protected health information of any Buyer.

26. INTERPRETATION, SEVERABILITY. These Terms and Conditions shall be construed and interpreted as if drafted jointly by Buyer and Seller. In the event any portion of these Terms and Conditions is found to be unenforceable, all other portions shall remain enforceable to the fullest extent allowable by law. Any omitted provision legally required for enforceability hereof shall be deemed inserted where required or in place of any conflicting provision.

27. NOTICE. All notices or other communications required to be given under these Terms and Conditions shall be in writing and shall be deemed to have been given upon personal delivery, certified or registered mail, return receipt requested, or by overnight courier with proof of delivery to the parties at the addresses set forth in an Accepted Order, unless a different address is designated in writing.

28. WAIVER. Failure of a Party to insist upon performance of any terms or conditions in this document shall not be deemed a waiver of any subsequent breach or default of these Terms and Conditions. No waiver will be valid unless in writing and no waiver granted will release a Party from subsequent compliance herewith.

29. SELLER'S RIGHT TO SUBCONTRACT. Seller reserves the right to subcontract any obligation hereunder.

30. GOVERNING LAW. These Terms and Conditions and any Accepted Orders shall be construed and enforced in accordance with the laws of the State of New York, without giving effect to its conflict of laws provisions. Any dispute regarding these Terms and Conditions or an Accepted Order shall be resolved in the state or federal courts of the State of New York, and each Party hereby expressly consents to the personal jurisdiction of the state or federal courts in the State of New York. The United Nations Convention on the International Sale of Goods shall not apply to these Terms and Conditions, an Accepted Order, or any related agreement or document. Any claim, except for nonpayment, must be brought within one (1) year of product shipment or completion of services. THE PARTIES AGREE TO WAIVE, TO THE MAXIMUM EXTENT PERMITTED BY LAW, ANY RIGHT TO A JURY TRIAL WITH RESPECT TO ANY LEGAL DISPUTE.

31. NO CLASS ACTIONS. NEITHER BUYER NOR SELLER SHALL BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS BY OR AGAINST OTHER BUYERS, OR PURSUE ANY CLAIM AS A REPRESENTATIVE OR CLASS ACTION OR IN A PRIVATE ATTORNEY GENERAL CAPACITY.

32. DISPUTE RESOLUTION. If a dispute arises under these Terms and Conditions (a "Dispute"), then prior to bringing any suit, action or proceeding in connection with such Dispute, a party must first give written notice of the Dispute to the other party describing the Dispute and requesting it be resolved pursuant to this dispute resolution process (the "Dispute Notice"). If the parties are unable to resolve the Dispute within thirty (30) days of delivery of the Dispute Notice, then each party shall promptly (but no later than ten business days thereafter) (a) appoint a designated representative who has sufficient authority to settle the Dispute and who is at a higher management level than the person with direct responsibility for the administration of these Terms and Conditions (the "Designated Representative"), and (b) notify the other party in writing of the name and contact information of such Designated Representative. The designated representatives shall then meet as often as they deem necessary in their reasonable judgment in order to discuss the Dispute and negotiate in good faith to resolve the Dispute. The Designated Representatives shall mutually determine the format for such discussions and negotiations, provided that all reasonable requests for relevant information relating the Dispute made by one party to the other party shall be honored. If the parties are unable to

resolve the Dispute within sixty (60) days after the appointment of both Designated Representatives, then either party may proceed with any other available remedy.

33. SURVIVAL. The following Articles shall survive termination or cancellation of an Accepted Order: 9, 12, 16, 17, 18, 20-25, 30-33 and 37, as well as any other provision, which by its nature, would reasonably be expected to survive termination.

34. MODIFICATION. Seller reserves the right to change these Terms and Conditions at any time by publishing revised Terms and Conditions on Seller's website. The revised Terms and Conditions shall immediately become effective for all sales made after such publication. Buyers can find the latest version of these Terms and Conditions at www.cxtec.com/CXtecTerms.

35. HEADINGS. The section headings in these Terms and Conditions are solely for reference purposes.

36. COUNTERPARTS. Any agreement subject to these Terms and Conditions may be executed in any number of counterparts. Delivery by facsimile, or other electronic means, of an executed signature page to any such agreement shall be effective as delivery of a manually signed original or counterpart.

37. INDEPENDENT ENTITIES. None of the provisions of these Terms and Conditions are intended to create nor shall be deemed or construed to create any relationship between the Parties other than that of independent entities contracting with each other solely for the purpose of affecting the provisions of these Terms and Conditions and any agreement subject to these Terms and Conditions. Neither Party nor any of its employees or agents will be construed to be the agent, the employer or representative of the other Party. Neither Party has any expressed or implied rights nor any authority to assume or create any obligation or responsibility on behalf of or in the name of the other Party, except as otherwise set forth in these Terms and Conditions.