

BRAEBURN CAPITAL, INC.
PURCHASE AGREEMENT
PURCHASE ORDER TERMS AND CONDITIONS

THIS PURCHASE AGREEMENT (the "**Agreement**") sets forth the terms and conditions that apply to all purchases of goods and services by Braeburn from Seller by means of a purchase order (a "**PO**") issued by Braeburn to Seller. As used in this Agreement, "**Seller**" means the entity identified on the face of a PO as "Seller" and its subsidiaries and affiliates, and "Braeburn" means Braeburn Capital, Inc. Seller and Braeburn hereby agree as follows:

1. **SERVICES & DELIVERABLES.** Seller agrees to perform the services ("**Services**") and/or provide the goods or deliverables described in a PO (collectively referred to as "**Goods**"), in accordance with the terms and conditions in this Agreement and the terms and conditions on the face of the PO, which terms are incorporated herein by reference. Upon acceptance of a PO, shipment of Goods or commencement of Services, Seller shall be bound by the provisions of this Agreement, whether Seller acknowledges or otherwise signs this Agreement or the PO, unless Seller objects to such terms in writing prior to shipping Goods or commencing Services. A PO does not constitute a firm offer and may be revoked at any time prior to acceptance. This Agreement may not be added to, modified, superseded, or otherwise altered, except by a writing signed by an authorized Braeburn representative. Any terms or conditions contained in any acknowledgment, invoice, or other communication of Seller which are inconsistent with the terms and conditions of this Agreement, are hereby rejected. To the extent that a PO might be treated as an acceptance of Seller's prior offer, such acceptance is expressly made on condition of assent by Seller to the terms hereof and shipment of the Goods or beginning performance of any Services by Seller shall constitute such assent. Braeburn hereby reserves the right to reschedule any delivery or cancel any PO issued at any time prior to shipment of the Goods or prior to commencement of any Services. Braeburn shall not be subject to any charges or other fees as a result of such cancellation.

2. **DELIVERY.** Time is of the essence. Delivery of Goods shall be made pursuant to the schedule, via the carrier, and to the place specified on the face of the applicable PO. Braeburn reserves the right to return, shipping charges collect, all Goods received in advance of the delivery schedule. If no delivery schedule is specified, the order shall be filled promptly and delivery will be made by the most expeditious form of transportation by land or sea. If no carrier is specified in the PO, Seller shall use the least expensive carrier. In the event Seller fails to deliver the Goods within the time specified, Braeburn may, at its option, decline to accept the Goods and cancel the PO without liability or may demand its allocable fair share of Seller's available Goods and cancel the balance of the PO without liability. Seller shall package all items in suitable containers to permit safe transportation and handling. Each delivered container must be labeled and marked to identify contents without opening and all boxes and packages must contain packing sheets listing contents. Braeburn's PO number must appear on all shipping containers, packing sheets, delivery tickets, and bills of lading. Seller will clearly identify the country of origin of all Goods delivered and will indemnify Braeburn with respect to any expenses, duties, penalties, damages, settlements, costs or attorney's fees incurred by Braeburn in connection with Seller's failure to identify or misidentification of the country of origin.

3. **IDENTIFICATION, RISK OF LOSS, & DESTRUCTION OF GOODS.** Identification of the Goods shall occur in accordance with Section 2501 of the California Commercial Code. Seller assumes all risk of loss until title transfers to Braeburn. Title to the Goods shall pass to Braeburn upon receipt by it of the Goods at the designated destination; provided, however, that if the designated destination is a warehouse operated by Seller or a third-party on Seller's behalf (a "**Hub**"), even if located on Braeburn's premises, receipt by Braeburn shall occur, and risk of loss and title shall transfer to Braeburn, when they are physically delivered to Braeburn and withdrawn from the Hub. If the Goods ordered are destroyed prior to title passing to Braeburn, Braeburn may at its option cancel the applicable PO without liability or require delivery of substitute Goods of equal quantity and quality. Such delivery will be made as soon as commercially practicable. If loss of Goods is partial, Braeburn shall have the right to require delivery of the Goods not destroyed.

4. **PAYMENT.**

4.1. As full consideration for the performance of the Services, delivery of the Goods and the assignment of rights to Braeburn as provided in this Agreement, Braeburn shall pay Seller (i) the amount agreed upon and specified in the applicable PO, or (ii) Seller's quoted price on date of shipment (for Goods), or the date Services were started (for Services), whichever is lower; provided, however, that if the designated destination for Goods is a Hub Braeburn shall pay Seller (a) the amount agreed upon and specified in the applicable PO, or (b) Seller's quoted price on the date such Goods are physically delivered to Braeburn and withdrawn from the Hub, whichever is lower. Applicable taxes and other charges such as shipping costs, duties, customs, tariffs, imposts, and government-imposed surcharges shall be stated separately on Seller's invoice. Payment is made when a check is mailed by or on behalf of Braeburn. Payment shall not constitute acceptance. All duties and taxes assessable upon the Goods prior to receipt by Braeburn of Goods conforming to the PO shall be borne by Seller. Seller shall invoice Braeburn for all Goods delivered and all Services actually performed. Each invoice submitted by Seller must be provided to Braeburn within ninety (90) days of completion of the Services or delivery of Goods and must reference the applicable PO, and Braeburn reserves the right to return all incorrect invoices. Braeburn will receive a 2% discount of the invoiced amount for all invoices that are submitted more than ninety (90) days after completion of the Services or delivery of the Goods. Unless otherwise specified on the face of a PO, Braeburn shall pay the invoiced amount within forty-five (45) days after receipt of a correct invoice. Seller will receive no royalty or other remuneration on the production or distribution of any products developed by Braeburn or Seller in connection with or based on the Goods or Services provided.

4.2. If Braeburn disputes the accuracy of an invoice (a "**Billing Dispute**"), Braeburn will not later than thirty (30) days following the date of such invoice, notify Seller in writing of the nature of the Billing Dispute. Braeburn may withhold payment of the disputed amount and such payment will not be considered past due during Seller's investigation. Seller will make commercially reasonable efforts to completely resolve the Billing Dispute within thirty (30) days following the date on which Seller received Braeburn's initial billing inquiry. If the parties are unable to resolve the Billing Dispute within such thirty (30) day period, it will be resolved pursuant to Section 27 below.

4.3. Seller shall maintain written or electronic records reflecting the basis for any charges billed in connection with a PO for five (5) years after Seller's receipt of Braeburn's final payment with respect to the PO. Braeburn shall have the right, but not the obligation, at any time or from time to time, during regular business hours, upon not less than twenty-four (24) hours notice to Seller, to inspect, audit or examine Seller's operations, records, systems and facilities to determine Seller's and any sub-contractor's compliance with the PO and the basis for any amounts billed to Braeburn. Any such inspection, examination, and/or audit shall not (i) relieve Seller of any obligation, responsibility or liability, or (ii) constitute Braeburn's approval of or consent to any actions undertaken or methods, systems and/or procedures used by Seller. Any inspection, examination and/or audit that Braeburn may perform shall be for Braeburn's sole benefit. If any such audit discloses any overcharges, Seller shall, on demand, pay Braeburn the amount of such overcharges, together with interest on such overcharges at the rate of ten percent (10%) per annum, or the maximum amount allowed by law, whichever is less, from the date of each such overcharge, until reimbursed to Braeburn. If any such audit discloses overcharges, in addition to any amounts to which Braeburn may be entitled, Seller shall, on demand, reimburse Braeburn for all costs and expenses incurred by Braeburn in connection with such audit.

5. WARRANTIES.

5.1. Services. Seller represents and warrants that all Services shall be completed in a professional, workmanlike manner, with the degree of skill and care that is required by current, good, and sound professional procedures. Further, Seller represents and warrants that the Services shall be completed in accordance with applicable specifications and any statements of work signed by an authorized representative of Braeburn and shall be correct and appropriate for the purposes stated therein. Seller represents and warrants that the performance of Services under this Agreement will not conflict with, or be prohibited in any way by, any other agreement or statutory restriction to which Seller is bound.

5.2. Goods. Seller warrants that it has good and transferable title to the Goods and that all Goods provided will be new and will not be used or refurbished. Seller warrants that all Goods delivered shall be free from all defects and shall conform to all applicable specifications and any statements of work signed by an authorized representative of

Braeburn for a period of fifteen (15) months from the date of delivery to Braeburn or for the period provided in Seller's standard warranty covering the Goods, whichever is longer. Seller hereby agrees that it will make spare parts available to Braeburn for a period of seven (7) years from the date of shipment at Seller's then current price, less applicable discounts. Additionally, Goods purchased shall be subject to all written and oral express warranties made by Seller's agents, and to all warranties provided for by the California Commercial Code. All warranties shall be construed as conditions as well as warranties and shall not be exclusive. Seller shall furnish to Braeburn Seller's standard warranty and service guaranty applicable to the Goods. All warranties shall run both to Braeburn and to its customers. If Braeburn identifies a warranty problem with the Goods during the warranty period, Braeburn will promptly notify Seller of such problems and will return the Goods to Seller, at Seller's expense. Within five (5) business days of receipt of the returned Goods, Seller shall, at Braeburn's option, either repair or replace such Goods, or credit Braeburn's account for the same. Replacement and repaired Goods shall be warranted for the remainder of the warranty period or six (6) months, whichever is longer.

6. **INSPECTION.** Braeburn shall have a reasonable time after receipt of Goods or Service deliverables and before payment to inspect them for conformity to the PO and applicable specifications and any statements of work signed by an authorized representative of Braeburn, and Goods received prior to inspection shall not be deemed accepted until Braeburn has run adequate tests to determine whether the Goods conform thereto. Use of a portion of the Goods for the purpose of testing shall not constitute an acceptance of the Goods. If Goods tendered do not wholly conform with the provisions hereof, Braeburn shall have the right to reject such Goods. Nonconforming Goods will be returned to Seller freight collect and risk of loss will pass to Seller upon Braeburn's delivery to the common carrier.

7. **INDEPENDENT CONTRACTOR.** Braeburn is interested only in the results obtained under this Agreement; the manner and means of achieving the results are subject to Seller's sole control. Seller is an independent contractor for all purposes, without express or implied authority to bind Braeburn by contract or otherwise. Neither Seller nor its employees, agents or subcontractors ("**Seller's Affiliates**") are agents or employees of Braeburn, and therefore are not entitled to any employee benefits of Braeburn, including but not limited to, any type of insurance. Seller shall be responsible for all costs and expenses incident to performing its obligations under this Agreement and shall provide Seller's own supplies and equipment. Braeburn may require a background check of any of Seller's Affiliates who perform Services on Braeburn premises, and Seller hereby agrees to conduct such investigation in accordance with background check standards to be provided by Braeburn, and shall at all times comply with all laws and regulations applicable to background investigations. Braeburn shall keep the results of any such investigation confidential, and provide such information only to those persons with a business need to know, or as required by applicable law. Seller's Affiliates shall observe the working rules of all Braeburn premises when on such premises. Braeburn reserves the right to prohibit any Seller's Affiliates from performing Services on Braeburn's premises.

8. **SELLER RESPONSIBLE FOR TAXES AND RECORDS.** Except as otherwise required by applicable law, Braeburn shall have no responsibility to pay or withhold from any payment to Seller under this Agreement, any federal, state, or local taxes or fees. Seller shall be liable for any applicable income taxes, levies, duties, costs, charges, withholdings, deductions or any charges of equivalent effect imposed on, or in respect of the Services provided by Seller to Braeburn under this Agreement. Where applicable, Seller will charge Braeburn sales tax, excise tax, use tax, value added tax ("**VAT**"), goods and services tax ("**GST**"), consumption tax, or equivalent type charges (hereinafter "**Transaction Taxes**") that are owed by Braeburn solely as a result of the Services provided by Seller to Braeburn under this Agreement and which are required or permitted to be collected from Braeburn by Seller under applicable law. If Braeburn provides Seller with a valid exemption certificate, Seller shall not collect the Transaction Taxes covered by such certificate. All charges will be supported by valid tax invoices provided by Seller to Braeburn consistent with the applicable EU invoicing directive or comparable authority of the relevant jurisdiction. Where any relevant taxation authority imposes any income tax on the payment for Services by Braeburn to Seller and requires Braeburn to withhold such tax ("**Withholding Tax**"), Braeburn may deduct such Withholding Tax from the payment to Seller and remit such Withholding Tax to the relevant taxing authority on behalf of Seller. The determination of the applicability of a Withholding Tax is at Braeburn's sole discretion. In the event a reduced Withholding Tax rate may apply on payments to Seller, Seller shall furnish to Braeburn as soon as practicable all documentation necessary to evidence the qualifications for the reduced rate of Withholding Tax. If the necessary documentation is not provided in a timely fashion before payment, the reduced Withholding Tax rate will not apply and any payments to Seller shall be subject to the full rate of Withholding Tax. Upon reasonable

request by Seller, Braeburn shall furnish Seller with tax receipts or other documentation evidencing the payment of such Withholding Tax when available. Upon request, Seller shall provide Braeburn with a validly executed U.S. Internal Revenue Service form to establish its U.S. or non-U.S. status or any other necessary tax documentation. Where applicable, a non-U.S. Seller shall note, on each invoice issued to Braeburn under this Agreement, the amount of Services performed by Seller within the United States, if any.

9. **INSURANCE.** Seller shall be solely responsible for maintaining and requiring Seller's Affiliates to maintain such adequate health, auto, workers' compensation, unemployment compensation, disability, liability, and other insurance, as is required by law or as is the common practice in Seller's and Seller's Affiliates' trades or businesses, whichever affords greater coverage. Upon request, Seller shall provide Braeburn with certificates of insurance or evidence of coverage before commencing performance under this Agreement. Seller shall provide adequate coverage for any Braeburn property under the care, custody or control of Seller or Seller's Affiliates.

10. **INDEMNITY.** Seller shall indemnify, hold harmless, and at Braeburn's request, defend Braeburn, its officers, directors, customers, agents and employees, against all claims, liabilities, damages, losses, and expenses, including attorneys' fees and cost of suit arising out of or in any way connected with the Goods or Services provided pursuant to a PO, including, without limitation, (i) any claim based on the death or bodily injury to any person, destruction or damage to property, or contamination of the environment and any associated clean up costs, (ii) Seller failing to satisfy the Internal Revenue Service's guidelines for an independent contractor, (iii) any claim based on the negligence, omissions, or willful misconduct of Seller or any of Seller's Affiliates, (iv) Seller failing to satisfy its obligations with regard to the protection of Confidential Data as described in Section 11 below, (v) Seller failing to comply with a requirement of applicable law, and (vi) any claim by a third party against Braeburn alleging that the Goods or Services, the results of such Services, or any other products or processes provided pursuant to a PO, infringe a patent, copyright, trademark, trade secret, or other proprietary right of a third party, whether such are provided alone or in combination with other products, software, or processes. Seller shall not settle any such suit or claim without Braeburn's prior written approval. Seller agrees to pay or reimburse all costs that may be incurred by Braeburn in enforcing this indemnity, including attorneys' fees. Should the use of any Goods or Services by Braeburn, its distributors, subcontractors, or customers be enjoined, be threatened by injunction, or be the subject of any legal proceeding, Seller shall, at its sole cost and expense, either (a) substitute fully equivalent non-infringing Goods or Services; (b) modify the Goods or Services so that they no longer infringe but remain fully equivalent in functionality; (c) obtain for Braeburn, its distributors, subcontractors, or customers the right to continue using the Goods or Services; or (d) if none of the foregoing is possible, refund all amounts paid for the infringing Goods or Services.

11. CONFIDENTIALITY; PERSONAL DATA; DATA SECURITY.

11.1 **Confidentiality.** Seller may acquire knowledge of Braeburn Confidential Information (as defined below) in connection with its performance hereunder and agrees to keep such Braeburn Confidential Information in confidence during and following termination or expiration of this Agreement. **"Braeburn Confidential Information"** includes but is not limited to all information, whether written or oral, in any form, including without limitation, information relating to the research, development, products, methods of manufacture, trade secrets, business plans, customers, vendors, finances, personnel data, Work Product (as defined in Section 12, below), and other material or information considered proprietary by Braeburn relating to the current or anticipated business or affairs of Braeburn which is disclosed directly or indirectly to Seller. In addition, Braeburn Confidential Information means any third party's proprietary or confidential information disclosed to Seller in the course of providing Services or Goods to Braeburn. Braeburn Confidential Information does not include any information (i) which Seller lawfully knew without restriction on disclosure before Braeburn disclosed it to Seller, (ii) which is now or becomes publicly known through no wrongful act or failure to act of Seller, (iii) which Seller developed independently without use of the Braeburn Confidential Information, as evidenced by appropriate documentation, or (iv) which is hereafter lawfully furnished to Seller by a third party as a matter of right and without restriction on disclosure. In addition, Seller may disclose Braeburn Confidential Information that is required to be disclosed pursuant to a requirement of a government agency or law so long as Seller provides prompt notice to Braeburn of such requirement prior to disclosure. Seller agrees not to copy, alter, or directly or indirectly disclose any Braeburn Confidential Information. Additionally, Seller agrees to limit its internal distribution of Braeburn Confidential Information to Seller's Affiliates who have a need to know, and to take steps to ensure that the dissemination is so

limited, including the execution by Seller's Affiliates of nondisclosure agreements with provisions substantially similar to those set forth in this Agreement. In no event will Seller use less than the degree of care and means that it uses to protect its own information of like kind, but in any event not less than reasonable care to prevent the unauthorized use of Braeburn Confidential Information. Seller further agrees not to use the Braeburn Confidential Information except in the course of performing hereunder and will not use such Braeburn Confidential Information for its own benefit or for the benefit of any third party. The mingling of the Braeburn Confidential Information with information of Seller shall not affect the confidential nature or ownership of the same as stated hereunder. Seller agrees not to design or manufacture any products incorporating Braeburn Confidential Information without Braeburn's express written consent in each instance. All Braeburn Confidential Information is and shall remain Braeburn property. Upon Braeburn's written request or the termination of this Agreement, Seller shall return, transfer, or assign to Braeburn all Braeburn Confidential Information, including all Work Product.

11.2 Protection of Personal Data. As a result of this Agreement, Seller and Seller's Affiliates may obtain certain information relating to identified or identifiable individuals ("**Personal Data**"), and such Personal Data shall be considered Braeburn Confidential Information. Seller shall have no right, title or interest in Personal Data obtained by it as a result of this Agreement. Seller shall, and shall ensure that any Seller's Affiliates with access to Personal Data: (a) collect, access, maintain, use, process and transfer Personal Data in accordance with the requirements set forth in this Section 11.2 and for the sole purpose of performing Seller's obligation under this Agreement; (b) comply with Braeburn's instructions regarding Personal Data, as well as all applicable laws, regulations and international accords, treaties, or accords, including without limitation, the EU/US Safe Harbor program (collectively, "**Legal Requirements**"), and refrain from engaging in any behavior which renders or is likely to render Braeburn in breach of same; (c) promptly notify Apple Inc.'s ("**Apple**") Privacy Counsel at 1 Infinite Loop, 169-5CLP, Cupertino, California 95014 of any requests from an individual with respect to Personal Data, and work with Braeburn to promptly and effectively handle such requests; and (d) when data is received directly or indirectly from the European Economic Area or from Braeburn's European affiliates, abide by the Safe Harbor Privacy Principles of the U.S. Department of Commerce, located at <http://www.export.gov/safeharbor>, as may be amended from time to time (the "**Safe Harbor Principles**"), excluding the Notice, Choice and Enforcement provisions contained therein.

11.3 Data Security. Seller shall take all appropriate legal, organizational and technical measures to protect against unlawful and unauthorized processing of Personal Data or Braeburn Confidential Information ("**Confidential Data**"). Seller shall maintain reasonable operating standards and security procedures, and shall use its best efforts to secure Confidential Data through the use of appropriate physical and logical security measures including, but not limited to, appropriate network security and encryption technologies, and the use of reasonable user identification or password control requirements, including multiple-factor authentication, strong passwords, session time-outs, and other security procedures as may be issued from time to time by Braeburn. If requested by Braeburn at any time during the term of this Agreement, Seller shall provide Braeburn with a copy of Seller's then current security policy. Seller shall promptly notify Braeburn in the event that Seller learns or has reason to believe that any person or entity has breached or attempted to breach Seller's security measures, or gained unauthorized access to Confidential Data ("**Information Security Breach**"). Upon any such discovery, Seller will (a) investigate, remediate, and mitigate the effects of the Information Security Breach, and (b) provide Braeburn with assurances reasonably satisfactory to Braeburn that such Information Security Breach will not recur. If Braeburn determines that notices (whether in Braeburn's or Seller's name) or other remedial measures (including notice, credit monitoring services, fraud insurance and the establishment of a call center to respond to customer inquiries) are warranted following a Security Breach, Seller will, at Braeburn's request and at Seller's cost and expense, undertake the aforementioned remedial actions.

11.4 Investigation; Noncompliance. In the event of an investigation by a data protection regulator or similar authority regarding Personal Data, Seller shall provide Braeburn with reasonable assistance and support, including, where necessary, access to Seller's premises to the extent needed to respond to such investigation. In the event that Seller is unable to comply with the obligations stated in this Section 11, Seller shall promptly notify Braeburn, and Braeburn may do one or more of the following: (i) suspend the transfer of Personal Data to Seller; (ii) require Seller to cease processing Personal Data; (iii) demand the return or destruction of Personal Data; or (iv) immediately terminate this Agreement. Upon termination of this Agreement for any reason, Seller shall promptly contact Braeburn for instructions regarding the return, destruction or other appropriate action with regard to Personal Data.

12. OWNERSHIP OF WORK PRODUCT. For purposes of this Agreement, "**Work Product**" includes, without limitation, all designs, discoveries, creations, works, devices, masks, models, work in progress, Service deliverables, inventions, products, computer programs, procedures, improvements, developments, drawings, notes, documents, information and materials made, conceived, or developed by Seller, alone or with others, which result from or relate to the Services performed pursuant to a PO, and all copies thereof. Standard Goods manufactured by Seller and sold to Braeburn without having been designed, customized, or modified for Braeburn do not constitute Work Product. All Work Product shall at all times be and remain the sole and exclusive property of Braeburn. Seller hereby agrees to irrevocably assign and transfer to Braeburn and does hereby assign and transfer to Braeburn all of its worldwide right, title, and interest in and to the Work Product including all associated intellectual property rights. Braeburn will have the sole right to determine the treatment of any Work Product, including the right to keep it as trade secret, execute and file patent applications on it, to use and disclose it without prior patent application, to file registrations for copyright or trademark in its own name, or to follow any other procedure that Braeburn deems appropriate. Seller agrees: (a) to disclose promptly in writing to Braeburn all Work Product in its possession; (b) to assist Braeburn in every reasonable way, at Braeburn's expense, to secure, perfect, register, apply for, maintain, and defend for Braeburn's benefit all copyrights, patent rights, mask work rights, trade secret rights, and all other proprietary rights or statutory protections in and to the Work Product in Braeburn's name as it deems appropriate; and (c) to otherwise treat all Work Product as Braeburn Confidential Information as described above. These obligations to disclose, assist, execute, and keep confidential survive the expiration or termination of this Agreement. All tools and equipment supplied by Braeburn to Seller shall remain the sole property of Braeburn. Seller will ensure that Seller's Affiliates appropriately waive any and all claims and assign to Braeburn any and all rights or any interests in any Work Product or original works created in connection with this Agreement. Seller irrevocably agrees not to assert against Braeburn or its direct or indirect customers, assignees, or licensees any claim of any intellectual property rights of Seller affecting the Work Product. Braeburn will not have rights to any works conceived or reduced to practice by Seller which were developed entirely on Seller's own time without using equipment, supplies, facilities, or trade secret or Braeburn Confidential Information, unless (i) such works relate to Braeburn' business, or Braeburn' actual or demonstrably anticipated research or development, or (ii) such works result from any Services performed by Seller for Braeburn.

13. ANTI-CORRUPTION.

13.1 Seller shall comply with, and shall ensure that all Seller's Affiliates comply with Apple's Anti-Corruption Policy as posted on Apple's public website, and with all applicable laws and regulations enacted to combat bribery and corruption, including the United States Foreign Corrupt Practices Act, the UK Bribery Act, the principles of the OECD Convention on Combating Bribery of Foreign Public Officials, and any corresponding laws of all countries where business or services will be conducted or performed pursuant to this Agreement. Seller shall not, and shall ensure that Seller's Affiliates do not, either directly or indirectly, pay, offer, promise to pay, or give anything of value (including any amounts paid or credited by Braeburn to Seller) to any person including an employee or official of a government, government controlled enterprise or company, or political party, with the reasonable knowledge that it will be used for the purpose of obtaining any improper benefit or to improperly influence any act or decision by such person or for the purpose of obtaining, retaining, or directing business. Any amounts paid by Braeburn to Seller or Seller's Affiliates pursuant to the terms of this Agreement will be for services actually rendered, or products sold, in accordance with the terms of this Agreement. Seller shall not, and shall ensure that Seller's Affiliates do not, offer or accept bribes or kickbacks in any form.

13.2 Disclosure of Government Related Parties. Seller and Seller's Affiliates represents and warrants that they have, to the best of the Seller's and Seller's Affiliate's knowledge and to the extent permitted by law, provided Braeburn with complete and accurate information regarding any majority owner, partner, officer, director, manager of Seller or Seller's Affiliates, or any other party who is authorized to conduct business on behalf of Seller or Seller's Affiliates (collectively, "**Seller Authorized Parties**") that is, has been or will become, an official or employee of a governmental entity or political party or a candidate for political office (each, a "**Government Related Party**"). If at any time during the term of this Agreement, Seller or Seller's Affiliates becomes aware, or otherwise has reason to believe, that any Seller Authorized Party is, has been or will become, a Government Related Party, then, to the extent permissible by law, Seller shall promptly notify Braeburn.

14. NO GRATUITIES. Seller shall not, and shall ensure that Seller's Affiliates do not, either directly, or indirectly, offer or give any person or entity any gift, gratuity, payment or other inducement with a view toward securing business from Braeburn or influencing the terms, conditions or performance of this Agreement or any PO.

15. TERMINATION. Braeburn may terminate this Agreement upon written notice to Seller if Seller fails to perform or otherwise breaches this Agreement, files a petition in bankruptcy, becomes insolvent, or dissolves. In the event of such termination, Braeburn shall pay Seller for the portion of the Services satisfactorily performed and those conforming Goods delivered to Braeburn through the date of termination, less appropriate offsets, including any additional costs to be incurred by Braeburn in completing the Services. Braeburn may terminate this Agreement for any other reason upon ten (10) days' written notice to Seller. Seller shall cease to perform Services and/or provide Goods under this Agreement on the date of termination specified in such notice. In the event of such termination, Braeburn shall be liable to Seller only for those Services satisfactorily performed and those conforming Goods delivered to Braeburn through the date of termination, less appropriate offsets. Seller may terminate this Agreement upon written notice to Braeburn if Braeburn fails to pay Seller within sixty (60) days after Seller notifies Braeburn in writing that payment is past due. Upon the expiration or termination of this Agreement for any reason: (i) each party will be released from all obligations to the other arising after the date of expiration or termination, except for those which by their terms survive such termination or expiration; and (ii) Seller will promptly notify Braeburn of all Braeburn Confidential Information or any Work Product in Seller's possession and, at the expense of Seller and in accordance with Braeburn's instructions, will promptly deliver to Braeburn all such Braeburn Confidential Information and/or Work Product.

16. SURVIVAL OF OBLIGATIONS. Any obligations and duties that by their nature extend beyond the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement.

17. FORCE MAJEURE. Neither party will be liable for any failure to perform, including failure to accept performance of Services or take delivery of the Goods as provided, caused by circumstances beyond its reasonable control including, but not limited to, acts of God, acts of war, government action or accident, provided it promptly notifies the other party and uses reasonable efforts to correct its failure to perform.

18. SEVERABILITY. If any provision of this Agreement shall be deemed to be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

19. REMEDIES. If Seller breaches this Agreement, Braeburn shall have all remedies available by law and at equity. For the purchase of Goods, Seller's sole remedy in the event of breach of this Agreement by Braeburn shall be the right to recover damages in the amount equal to the difference between market price at the time of breach and the purchase price specified in the Agreement. No alternate method of measuring damages shall apply to this transaction. Seller shall have no right to resell Goods for Braeburn's account in the event of wrongful rejection, revocation of acceptance, failure to make payment or repudiation by Braeburn and any resale so made shall be for the account of Seller. Seller acknowledges and agrees that the obligations and promises of Seller under this Agreement are of a unique, intellectual nature giving them particular value. Seller's breach of any of the promises contained in this Agreement will result in irreparable and continuing damage to Braeburn for which there will be no adequate remedy at law and, in the event of such breach, Braeburn will be entitled to seek injunctive relief, or a decree of specific performance.

20. ATTORNEYS' FEES. In any action to enforce this Agreement, the prevailing party shall be entitled to recover all court costs and expenses and reasonable attorneys' fees, in addition to any other relief to which it may be entitled.

21. LIMITATION OF LIABILITY. IN NO EVENT SHALL BRAEBURN BE LIABLE TO SELLER OR SELLER'S AFFILIATES, OR ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT, WHETHER OR NOT BRAEBURN WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

22. **ASSIGNMENT/WAIVER.** Seller may not assign this Agreement or any of its rights or obligations under this Agreement, without the prior written consent of Braeburn. Any assignment or transfer without such written consent shall be null and void. A waiver of any default or of any term or condition of this Agreement shall not be deemed to be a continuing waiver or a waiver of any other default or any other term or condition.

23. **NONEXCLUSIVE AGREEMENT.** This is not an exclusive agreement. Braeburn is free to engage others to perform Services or provide Goods the same as or similar to Seller's. Seller is free to, and is encouraged to, advertise, offer, and provide Seller's Services and/or Goods to others; provided however, that Seller does not breach this Agreement.

24. **NOTICES.** Except for POs which may be sent by local mail, facsimile transmission, or electronically transmitted, all notices required or permitted by this Agreement must be in writing addressed to the authorized representative(s) of the other party. Notice will be deemed given (i) when delivered personally; (ii) when sent by confirmed facsimile; (iii) one day after having been sent by commercial overnight carrier specifying next-day delivery with written verification of receipt; and (iv) three days after having been sent by first class or certified mail postage prepaid. A copy of any notice sent to Braeburn must also be sent simultaneously to Braeburn's General Counsel at Apple Inc., Infinite Loop, Cupertino, CA 95014, fax (408) 974-8530.

25. COMPLIANCE WITH LAWS; SAFETY AND LABOR STANDARDS.

25.1. **General.** Seller and Seller's Affiliates will comply with all applicable laws and regulations (including, without limitation, the applicable laws, orders, policies, and regulations of the U.S. Government, U.S. Customs, and any other jurisdiction in which Goods or Services are provided, relating to import, export and re-export of commodities, technical data and software, privacy, labor and employment, anti-discrimination and anti-harassment, freedom of association, environmental protection, hazardous substances management, pollution prevention and resource sustainability, waste management, recycling, protection of intellectual property, and anti-corruption) and Seller will defend and hold Braeburn harmless from any expense or damage resulting from its violation or alleged violation of any such law or regulation in the performance of this Agreement.

25.2 **Supplier Code of Conduct.** At all times during the term of this Agreement, Seller will comply with the Apple Supplier Code of Conduct ("Code of Conduct"), as amended by Braeburn from time-to-time, available from Apple's public website at <http://www.apple.com/supplier-responsibility/accountability/>. Notwithstanding anything to the contrary herein, Seller will: (i) allow Braeburn and a third party representative, retained by or representing Braeburn (collectively, the "**Auditor**"), to assess Seller's compliance with the Code of Conduct by inspecting Seller's facilities and/or reviewing Seller's practices, policies, and relevant records without notice, and/or by interviewing Seller's personnel without monitoring, solely to verify Seller's compliance with the Code of Conduct (collectively, an "**Assessment**"); (ii) promptly provide the Auditor with access to any relevant facilities and personnel without disruption or interference, in connection with any Assessment; (iii) promptly provide complete and accurate information and documentation in response to the Auditor's requests, (iv) allow the Auditor to review and assess working hours and conditions, remuneration and benefits, personnel practices, production, dormitory, and dining facilities, business conduct, and health, safety, and environmental practices, as applicable, in connection with any Assessment; (v) not request or encourage, directly or indirectly, any Seller personnel to furnish false or incomplete information in connection with any Assessment; (vi) not take retaliatory action against any Seller personnel interviewed during an Assessment; and (vii) promptly implement corrective action to remedy any material non-conformance with the Code of Conduct. Braeburn may disclose the results of any Assessment in connection with its corporate responsibility, corporate compliance, and periodic reporting activities. Seller will obtain all permits, consents, and authorizations necessary to enable the Auditor to assess Seller's policies, practices, records, and facilities. Seller's failure to perform its obligations described in this subsection or to remedy any material non-conformance with the Code of Conduct after a reasonable amount of time will constitute a breach of this Agreement. For purposes of this subsection, the term "**Seller**" includes any party that performs a material portion of the obligations to Braeburn under this Agreement.

25.3. **Export Compliance.** Seller agrees that it will not export, re-export, resell or transfer any export controlled commodity, technical data or software (i) in violation of such limitations imposed by the United States or any other

appropriate national government authority; or (ii) to any country for which an export license or other governmental approval is required at the time of export, without first obtaining all necessary licenses or other approvals.

25.4. Customs. Upon Braeburn's request, Seller will promptly provide Braeburn with a statement of origin for all Goods and United States Customs documentation for Goods wholly or partially manufactured outside of the United States. To the extent that services will be provided in the United States and/or that Goods will be transported into the United States, Seller represents that either (a) it is C-TPAT certified by U.S. Customs & Border Protection, and will maintain that certification while providing services in, or transporting Goods into, the United States or (b) it will comply with the C-TPAT (Customs Trade Partnership Against Terrorism) security procedures that may be found on the U.S. Customs website at www.cbp.gov <<http://www.cbp.gov>> (or such other website that the C-TPAT security procedures may be moved to by the U.S. Government).

25.5. Equal Employment Opportunity. Braeburn is committed to the requirements of Executive Order 11246, the Rehabilitation Assistance Act, and all regulations pertaining to that order. Pursuant to these requirements, the Equal Opportunity Clauses found at 41 Code of Federal Regulations sections 60-1.4(a) (1-7), 60-250.4(a-m), 60-300.5(a) and 60-741.5(a) (1- 6) are incorporated herein by reference as though set forth at length, and made an express part of this Agreement. If applicable, Seller will comply with the following Federal Acquisition Regulations: (i) 52.222-26 "**Equal Opportunity**", (ii) 52.222-35 "**Affirmative Action for Special Disabled and Vietnam Veterans**", (iii) 52.222-36 "**Affirmative Action for Handicapped Workers**."

41 CFR 60-300.5(a)

This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

41 CFR 60-741.5(a)

This contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

25.6. Hazardous Materials. If Goods include hazardous materials, Seller represents and warrants that Seller understands the nature of any hazards associated with the manufacture, handling, and transportation of such hazardous materials

26. PUBLICITY/MARKS. Seller will not use (or permit Seller's Affiliates to use) Braeburn's trademarks, service marks, trade names, logo or other commercial or product designations for any purpose, or make (or permit Seller's Affiliates to make) any public statement whatsoever (including, without limitation, press releases, media statements, case studies or the like) regarding the existence of this Agreement or the parties' relationship.

27. GOVERNING LAW. This Agreement and the rights and obligations of the parties will be governed by and construed and enforced in accordance with the laws of the State of California as applied to agreements entered into and to be performed entirely within California between California residents, without regard to conflicts of law principles. The parties expressly agree that the provisions of the United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement or to their relationship.

28. DISPUTE RESOLUTION, JURISDICTION AND VENUE. If there is a dispute between the parties (whether or not the dispute arises out of or relates to this Agreement), the parties agree that they will first attempt to resolve the dispute through one senior management member of each party. If they are unable to do so within sixty (60) days after the complaining party's written notice to the other party, the parties will then seek to resolve the dispute through non-binding mediation conducted in Santa Clara County or San Francisco County, California. Each party must bear its own expenses in connection with the mediation and must share equally the fees and expenses of the mediator. If the parties are unable to resolve the dispute within sixty (60) days after commencing mediation, either

party may commence litigation in the state or federal courts in Santa Clara County, California. The parties irrevocably submit to the exclusive jurisdiction of those courts and agree that final judgment in any action or proceeding brought in such courts will be conclusive and may be enforced in any other jurisdiction by suit on the judgment (a certified copy of which will be conclusive evidence of the judgment) or in any other manner provided by law. Process served personally or by registered or certified mail, return receipt requested, will constitute adequate service of process in any such action, suit or proceeding. Each party irrevocably waives to the fullest extent permitted by applicable law (i) any objection it may have to the laying of venue in any court referred to above; (ii) any claim that any such action or proceeding has been brought in an inconvenient forum; and (iii) any immunity that it or its assets may have from any suit, execution, attachment (whether provisional or final, in aid of execution, before judgment or otherwise) or other legal process.

29. **EQUITABLE RELIEF.** Notwithstanding Section 28 above, either party may seek equitable relief in order to protect its confidential information or intellectual property at any time, provided it does so in the state or federal courts in Santa Clara County, California (and only those courts). The parties hereby waive any bond requirements for obtaining equitable relief. The confidentiality provisions of this Agreement will be enforceable under the provisions of the California Uniform Trade Secrets Act, California Civil Code Section 3426, as amended.

30. **ENTIRE AGREEMENT/MODIFICATION.** This Agreement is the complete, final, and exclusive statement of the terms of the agreement between the parties and supersedes any and all other prior and contemporaneous negotiations and agreements between them relating to the subject matter hereof. This Agreement may not be varied, modified, altered, or amended except in writing signed by the parties. The terms and conditions of this Agreement shall prevail notwithstanding any variance with the terms and conditions of any acknowledgment or other document submitted by Seller. Notwithstanding the foregoing, this Agreement will not supersede or take the place of any written agreement that is signed by both parties and covers the same subject matter as this Agreement or its related POs.

[remainder of page intentionally left blank]