

RESALE TERMS AND CONDITIONS

- 1. TERMS AND CONDITIONS.** These Resale Terms And Conditions of sale (these “**Terms**”) are the only terms which govern the sale of Products to the specialty retailer purchasing such Products (“**RETAILER**”). The purchase of Products by RETAILER, whether from Aira, Inc., a Delaware corporation, with its principal place of business at 2048 N 44th Street, Phoenix, Arizona 85008 (“**AIRA**”) or its independent authorized distributor (“**Authorized Distributor**”, and as applicable, with AIRA, the “**Seller**”), is conditional on RETAILER’S agreement to these Terms. These Terms prevail over RETAILER’S terms and/or conditions any other terms and/or conditions of purchase regardless of whether or when RETAILER has submitted any purchase order, sales confirmation or any such document. Fulfillment of RETAILER’S order by Seller does not constitute acceptance of any of RETAILER’S terms and/or conditions and does not serve to modify or amend these Terms. ANY ADDITION, CHANGE, OR DELETION BY RETAILER IN ANY PURCHASE ORDER OR OTHERWISE SHALL BE DEEMED A MATERIAL ALTERATION AND IS EXPRESSLY REJECTED BY SELLER. These Terms apply to any replacement Products provided by Seller.
- 2. GENERAL CONDUCT.** RETAILER shall conduct its business in a manner that will reflect favorably on AIRA and AIRA Products and shall not engage in any deceptive, misleading, illegal, or unethical business practice. RETAILER’S communications and representations to customers shall be true, accurate, complete, and consistent with AIRA’s documentation and descriptions of AIRA Products. RETAILER is strictly prohibited from using any trade secrets, confidential information, or know-how it accesses or receives in any manner, including, to compete with AIRA. RETAILER will comply with all Applicable Laws that govern its activities under this Agreement. RETAILER shall comply with generally accepted selling and marketing standards in connection with AIRA Products; provided that the RETAILER shall not create or use any Marketing or Advertising materials in connection with or in any way associated with the AIRA Products, unless otherwise approved by AIRA in writing.
- 3. RECORDS.** RETAILER shall establish and maintain records of its sales in sufficient detail to permit identification and destination of each of AIRA Products sold by RETAILER. While said records are the private property of the RETAILER, the information therein shall be provided to AIRA if required by any regulatory action or to comply with applicable law. RETAILER shall allow AIRA, subject to reasonable prior written notice by AIRA, and during normal business hours of RETAILER, to visit RETAILER’S places of business and audit RETAILER’S records at AIRA’s own cost for the purpose of verifying RETAILER’S performance of its obligations. RETAILER shall on a quarterly basis provide to AIRA a written report detailing sales, distribution and marketing efforts in the preceding calendar quarter. RETAILER shall share and maintain information by using AIRA dedicated systems, including, but not limited to, central document repository, inventory management system, CRM system and support ticketing system. Information to be provided by RETAILER includes, but is not limited to, prospect vendors in sales pipeline, existing accounts and associated agreements, quotes, invoices and Purchase Orders.
- 4. FORECASTS.** RETAILER shall provide to AIRA, on or before the beginning of each calendar month during the Term hereof, a rolling forecast (“**Forecast**”) estimating the RETAILER’S monthly requirements for purchases of AIRA Products in the immediately subsequent calendar quarter. Each such Forecast shall be partially binding as follows: (i) the 1st 3 months of each Forecast are 90% binding; (ii) the 2nd 3 months of each Forecast are 50% binding; and (iii) the last 6 months of each Forecast are 25% binding. RETAILER may only adjust amounts in each subsequent Forecast consistent with the non-binding portion of the preceding Forecast. If RETAILER requires additional AIRA Products beyond the forecasted amount, RETAILER may request such additional AIRA Products and AIRA will use reasonable efforts, in light of its other supply commitments, to supply the RETAILER with the additional AIRA Products.
- 5. PURCHASE OF AIRA PRODUCTS.** This Section applies for purchases of AIRA Products directly from AIRA. The RETAILER shall submit to AIRA written purchase orders for AIRA Products, at least twelve (12) weeks (the “**Submission Period**”) prior to the specified delivery date (each a “**Purchase Order**” and collectively the “**Purchase Orders**”). AIRA may, in its sole discretion, agree to shorten or extend the Submission Period for RETAILER. Each Purchase Order shall state the order quantity, specifications and requested delivery date. The terms and conditions of these Terms shall apply to any Purchase Order, regardless of whether these Terms or its terms and conditions are expressly referenced in that Purchase Order. No inconsistent or additional term or condition in any Purchase Order or any acknowledgment or sale document from RETAILER shall be applicable to Purchase Orders placed by RETAILER during the Term for the purchase of AIRA Products, unless expressly agreed to by the Parties in writing. AIRA may, at its sole discretion, accept or reject any Purchase Order submitted by the RETAILER. Unless the RETAILER is otherwise notified by AIRA, AIRA shall be deemed to have accepted any Purchase Order that AIRA commences fulfillment thereof. RETAILER may not cancel a Purchase Order without AIRA’S written approval, of which AIRA may withhold for any reason or no reason at all. RETAILER shall have the right to suspend deliveries under open Purchase Orders by giving AIRA written notice in the event it experiences an Epidemic Failure. In the case of notification by RETAILER of an Epidemic Failure, AIRA shall propose an action plan to fix the failure as soon as practicable and resume supply of suspended open Purchase Orders. AIRA shall implement this action plan as soon as practicable and thereupon the suspension of deliveries shall terminate. If requested by RETAILER, AIRA shall support and provide at AIRA’S expense a sufficient number of Products to permit the field exchange or “hot swap” of Products at customer sites. AIRA also agrees that RETAILER will be supported with accelerated shipments of replacement Products to cover RETAILER’S supply requirements. If an Epidemic Failure is caused by (i) AIRA’S failure to comply with the applicable Product specifications; or (ii) a defect in AIRA’S materials or workmanship, AIRA shall perform the remediation obligations in this Section free of charge. If an Epidemic Failure is caused by any other reason other than as set forth in the immediately preceding sentence, AIRA shall perform the remediation obligations set forth in this Section at RETAILER’S expense and RETAILER and AIRA shall work to determine root cause and to the extent that failures are as set forth in the preceding sentence. RETAILER shall pay the Price to AIRA, in accordance with the payment terms set forth in the Specialty Retailer Agreement, for AIRA Products supplied to RETAILER by AIRA, subject to change as set forth below. NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY, RETAILER IS FREE TO ESTABLISH ITS OWN PRICING FOR THE AIRA PRODUCTS AS INCORPORATED IN CHARGING COUNTERTOPS, PROVIDED THAT THE RETAILER SHALL REMAIN OBLIGATED TO REMIT TO AIRA THE PRICE. AIRA may adjust its MSRP and the Price for the AIRA Products, from time to time, and at its sole discretion; provided that AIRA shall not increase the Price for any AIRA Product ordered by the RETAILER, pursuant to a previously submitted Purchase Order, and that has been accepted by AIRA. Any late payments by the RETAILER shall be subject to annual

interest at the rate of ten percent (10%) compounded on a monthly basis, until paid in full. All AIRA Products ordered by the RETAILER for distribution under these Terms shall be packed for shipment, stored, integrated, and installed in accordance with AIRA'S standard practices and the Documentation. AIRA shall ship the AIRA Products to RETAILER as set forth in each corresponding Purchase Order. AIRA shall deliver the AIRA Products into the possession of a common carrier designated by the RETAILER. All AIRA Products shall be shipped and delivered EXW (Incoterms 2022) AIRA'S facility. The RETAILER shall bear all risk of damage or loss beginning upon the delivery of the AIRA Products in accordance with EXW (Incoterms 2022) AIRA'S facility. AIRA Products are deemed to be accepted by RETAILER upon delivery. Within three (3) business days upon delivery of the AIRA Products (the "**Inspection Period**"), the RETAILER shall inspect the shipments of AIRA Products for compliance with the corresponding Purchase Order. To the extent that RETAILER'S inspection reveals that the AIRA Product shipment does not comply with the applicable Purchase Order, then the RETAILER will have the option to either, in RETAILER'S sole discretion, (i) retain the AIRA Product subject to a credit issued for the account of RETAILER for the Price differential for the delivered AIRA Products as compared to the AIRA Products ordered pursuant to the corresponding Purchase Order (the "**Credit**"); or (ii) request that the incorrect or missing AIRA Product, as otherwise ordered pursuant to a Purchase Order, be replaced by AIRA at AIRA'S sole cost (the "**Replacement**"). In the event the RETAILER fails to notify AIRA in writing within the Inspection Period that the AIRA Product shipment does not comply with the corresponding Purchase Order, the RETAILER is deemed to have waived its ability to seek a Credit or Replacement related thereto and shall have no further remedy as it relates to such AIRA Product. RETAILER will not make contracts, representations, or warranties or to create any obligations whatsoever on behalf of or which may in any way bind AIRA or its Affiliates. In the course of its performance of the Specialty Retailer Agreement or these Terms, RETAILER shall describe the AIRA Products strictly in accordance with the Documentation and AIRA'S standard consumer limited warranty. RETAILER shall make no representations or warranties of any kind that exceed the scope of the Documentation and AIRA'S standard consumer limited warranty. RETAILER shall communicate the Documentation and AIRA'S standard consumer limited warranty in a manner and form as to be enforceable to the maximum extent permitted under the Applicable Laws. All payments that may be due by AIRA to RETAILER hereunder are subject to AIRA'S right to set-off against such payments as a result of any amounts due to AIRA by RETAILER or as a result of RETAILER'S breach of any obligation set forth herein.

6. **RESALE OF AIRA PRODUCTS.** AIRA shall provide to RETAILER samples of its standard promotional and technical literature for the AIRA Products in reasonable quantities at AIRA'S cost. AIRA shall provide to RETAILER supplies of such literature, if applicable in hard copy form, in excess of such reasonable quantities at such prices as may hereafter be agreed upon. Such literature is subject to revision by AIRA at any time without prior notice. AIRA will provide sample FAQs for RETAILER'S use with customers. Upon RETAILER'S request, AIRA shall sell to RETAILER sample AIRA Products for demonstration purposes, the pricing and number of Units of which to be determined in AIRA'S sole reasonable discretion. RETAILER shall not provide customers with any materials which are not produced or approved in writing by AIRA to the extent that such materials would alter, or be inconsistent with, the published specifications provided by AIRA or create warranty or other obligations of AIRA which are in addition to, or exceed the scope, of AIRA'S published warranties. To the extent applicable, in no event will RETAILER alter or remove any of AIRA Product packaging which provides information intended by AIRA for the ultimate user of the AIRA Products without prior written consent of AIRA. RETAILER shall deliver appropriate technical materials concerning an AIRA Product to each

customer on the date such AIRA Product is first delivered to such customer. When any technical literature is revised by AIRA, RETAILER will replace outdated material previously distributed with the revised and supplied material from AIRA if requested to do so by AIRA.

7. **INTELLECTUAL PROPERTY.** All right, title and interest in and to any and all AIRA IP and all Intellectual Property Rights arising therefrom shall remain solely and exclusively with AIRA or its Affiliates, as the case may be. Except for the foregoing, all right, title and interest in and to all other new Information and Intellectual Property Rights arising from such new Information shall vest in the Party or its Affiliates whose employee(s) created the Information. In the event that RETAILER is an inventor or co-inventor of any AIRA IP, then RETAILER hereby assigns without any consideration or payment by AIRA, to AIRA, all of RETAILER'S right, title, and interest, in and to such AIRA IP and all Intellectual Property Rights arising therefrom, from the moment of creation. RETAILER shall not, whether during the Term or thereafter, assert, directly or indirectly, any interest or property right in any AIRA IP, or, except as otherwise expressly permitted herein or otherwise without AIRA'S prior written consent, use or display any AIRA IP, take any action or omit to take any action in derogation or dilution of any AIRA IP, or use or display any material that is a derivation of, an adoption of, or confusingly similar to any AIRA IP, as determined by AIRA in its sole and absolute discretion. RETAILER agrees to fully cooperate with AIRA, both during and after the Term, in obtaining, preserving, and maintaining for AIRA and its Affiliates protection under Intellectual Property Rights for the AIRA IP, including (i) promptly executing and/or delivering all documents that AIRA, in its reasonable judgment, determines are necessary and (ii) maintaining complete and accurate records regarding RETAILER'S use of the AIRA IP.

8. **LICENSE TO USE FREEPOWER® BRAND.** Pursuant to the terms and conditions and during the term of the Specialty Retailer Agreement only, AIRA hereby grants to RETAILER a nonexclusive, nonassignable, non-sublicensable, revocable, non-transferable worldwide license to use the FreePower® Brand, solely in the form and style provided in the FreePower® Brand Guidelines, for the purpose of Advertising and Marketing the Charging Countertops for sale to consumers in the approved Sales Channels and to Certified Fabricators in the Geographic Area. RETAILER shall not be permitted to use any trademark, logos, trade dress and/or trade names on any of the AIRA Product or AIRA Product packaging without prior written permission by AIRA. AIRA reserves all rights of ownership and control over the FreePower® Brand, and the right to use thereof by RETAILER in furtherance of these Terms; provided that AIRA shall have the right to restrict, at any time, any use of the foregoing in which AIRA in its sole discretion believes poses a threat or could be detrimental to the FreePower® Brand, AIRA'S goodwill, or reputation. RETAILER shall not at any time do anything or act in any way that would or might adversely affect the value or validity of the FreePower® Brand, any AIRA trademarks or Intellectual Property Rights belonging to AIRA. RETAILER shall immediately notify AIRA in writing upon becoming aware of any intellectual property infringement or imitation of any intellectual property of AIRA or of any facts that RETAILER believes might constitute infringement or imitation. All uses of the FreePower® Brand shall inure to the sole benefit of AIRA. Prior to using the FreePower® Brand in Advertising and Marketing the AIRA Products, RETAILER shall provide samples of such use to AIRA for its advance written approval. RETAILER shall not use the FreePower® Brand whatsoever until such advance approval is obtained. Once a particular use is approved by AIRA, RETAILER shall be permitted to continue to use the FreePower® Brand in a similar manner without the requirement to obtain further approval from AIRA. RETAILER shall have no right to establish packaging or branding for the AIRA Products and must use the packaging supplied or approved by AIRA in the distribution of the AIRA Products. AIRA shall solely have the right to pursue registration of the

FreePower® Brand anywhere in the world. Such prosecution and registration shall be solely in the discretion of AIRA as to which trademarks to pursue and the scope of the goods and services covered. RETAILER shall at no time attempt to register or take any action as it relates to the registration, maintenance, or otherwise of the FreePower® Brand, whether such is in the name of the RETAILER or any other party's name, anywhere in the world. RETAILER agrees to affix to the Advertising and Marketing materials depicting the AIRA IP, the copyright and trademark notices designated in writing by AIRA from time to time. The required notices shall appear on all uses, packaging, labels, and containers upon which any AIRA IP appears. The size, positioning, and form of notices shall be subject to AIRA's prior written approval. RETAILER and its Affiliates will not use the AIRA's name or any Intellectual Property as the name of RETAILER or any Affiliates of RETAILER, as part of its domain name, or on any invoices, business cards, order forms, stationery, or related materials.

9. **CERTIFIED FABRICATOR REQUIREMENTS.** RETAILER must ensure that (i) all Products sold to consumers are for use with Charging Countertops; and (ii) the Charging Countertops are only fabricated and installed by Certified Fabricators. RETAILER shall engage with and onboard third-party fabricators convenient to the Sales Channels who desire to become Certified Fabricators. RETAILER will not share any AIRA Confidential Information with a Certified Fabricator without first executing an AIRA-approved non-disclosure agreement with the Certified Fabricator. RETAILER must maintain a database of non-disclosure agreements with RETAILER customers and Certified Fabricators that is accessible by AIRA. RETAILER shall adhere to the following process in onboarding each Certified Fabricator ("**FreePower Fabricator Certification Process**"): (i) Step 1: Fabricator Onboarding. RETAILER signs up and enters into AIRA-approved non-disclosure agreement to start on boarding process; (ii) Step 2: Fabricator Training. RETAILER trains fabricator. Training process automatically expires 3 months after training begins (unless fabricator is conditionally certified) and fabricator would need to restart training process; (iii) Step 3: Conditional Certification. RETAILER conditionally certifies fabricator. Conditional certification automatically expires after 3 months; (iv) Step 4: Fabricator Final Certification Preparation. Fabricator goes through final certification process with RETAILER. Fabricator sets up showroom with RETAILER support and performs test fabrication based on AIRA specifications and at fabricator's cost, delivers all test fabrication material to an AIRA designated location; (v) Step 5: Final Certification. AIRA will perform final certification for each fabricator and upon certification and entry into AIRA'S Wholesaler Agreement, each such fabricator will be considered a Certified Fabricator. AIRA certifies based on validated test fabrication and confirmation of proper showroom setup. Fabricator is not authorized to sell AIRA Product or to fabricate any Charging Countertop to anyone until fabricator receives applicable final certification from AIRA and enters into AIRA'S Wholesaler Agreement. RETAILER shall be solely responsible for ensuring all Certified Fabricators it qualifies are in compliance with all AIRA requirements, including, but not limited to, confidentiality, adherence to best practices in marketing and sales of AIRA Product, and compliance with AIRA published policies. RETAILER shall be permitted to sell directly to Certified Fabricators for resale to consumers purchasing Charging Countertops as long as such Certified Fabricators are located within the Geographic Area.

10. **COUNTERFEIT PROTECTION.** RETAILER shall, at its sole cost and expense, use its best efforts to prevent counterfeiting of the AIRA Products. In addition, AIRA may impose requirements upon RETAILER from time to time to prevent counterfeiting of the AIRA Products, including requiring the AIRA Products to bear devices or labels designated by AIRA to prevent counterfeiting, which devices and labels shall be used as directed by AIRA and as intended by the manufacturer.

AIRA may, at its option, supply such devices or labels to RETAILER directly, in which case RETAILER shall promptly reimburse AIRA for AIRA's out-of-pocket costs for such devices and labels. RETAILER shall promptly notify AIRA in writing of any infringement of any Intellectual Property of which RETAILER becomes aware. AIRA, at its cost and expense, shall have the exclusive right (and RETAILER shall have no right) to institute any legal or other action against the infringer that AIRA, in its sole and absolute discretion, deems appropriate, whether in the name of AIRA and/or its Affiliates or RETAILER, as AIRA may elect. All proceeds in connection with any such action shall belong solely to AIRA, and RETAILER shall have no claim whatsoever to any such proceeds. RETAILER agrees to fully cooperate with AIRA, at AIRA's cost and expense (except for RETAILER's attorneys' fees, which shall be borne by RETAILER), in connection with any such action.

11. **REPRESENTATIONS AND WARRANTIES.** Each Party hereby represents, warrants and covenants: (i) that it has the full power, right and authority to execute and deliver the Specialty Retailer Agreement and to agree to these Terms and that it shall use commercially reasonable efforts to perform its obligations thereunder and hereunder; and (ii) that by entering into the Specialty Retailer Agreement and these Terms such Party will not be in breach or cause, with the passage of time, the giving of notice, or both, a breach under any agreement affecting the AIRA Products, the Charging Countertop or rights related thereof and held by the respective party. All AIRA Products are warranted under AIRA'S standard consumer limited warranty. By entering into the Specialty Retailer Agreement and these Terms, the RETAILER shall provide all first level customer support for its customers that purchase Charging Countertops. AIRA shall support the RETAILER'S efforts by providing the RETAILER with second level support, as deemed reasonably required at the sole discretion of AIRA. RETAILER represents and warrants that all AIRA Products purchased from AIRA, or an Authorized Distributor are for resale in the ordinary course of RETAILER'S business, and RETAILER has complied and/or will comply with all applicable laws and rules relating to the billing, collection and/or payment by RETAILER of value-added, sales, use, franchise, import duties and all other taxes to which RETAILER is subject. AIRA may, at its sole discretion and at any time, require RETAILER to obtain certified proof of tax payments or withholdings and immediately transmit the same to AIRA. EXCEPT AS PROVIDED HEREIN, AIRA EXPRESSLY DISCLAIMS ANY WARRANTIES OR CONDITIONS, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE AIRA PRODUCTS AND/OR THE INSTALLATION OR INTEGRATION THEREOF INTO THE RETAILER PRODUCTS, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, VALIDITY OR NON-INFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES OR THE RETAILER. AIRA SPECIFICALLY DISCLAIMS ANY REPRESENTATION THAT THE AIRA PRODUCTS WILL BE SUITABLE FOR INTEGRATION OR INSTALLATION WITH THE RETAILER PRODUCTS, IN WHOLE OR PART, INCLUDING WITHOUT LIMITATION THAT THE AIRA PRODUCTS WILL HAVE THE DESIRED CHARACTERISTICS OR WILL SUCCESSFULLY BE USED, DISTRIBUTED, INSTALLED, OR INTEGRATED INTO THE RETAILER PRODUCTS. ALL AIRA PRODUCTS PROVIDED HEREUNDER ARE SUPPLIED "AS IS."

12. **AIRA'S INDEMNIFICATION OBLIGATION.** AIRA shall indemnify, defend and hold RETAILER and its employees, officers, directors, agents and representatives harmless from and against any and all claims, actions, losses, damages, demands, liabilities, costs and expenses, including reasonable attorney's fees and expenses, whether a suit or other proceeding is initiated or not, which may arise from any third party claim directly as a result of: (i) any negligence or willful misconduct of AIRA, its agents, or subcontractors; and (ii) the AIRA Products or their elements, or any FreePower® Brand violating or infringing upon the

patents, copyrights, trademarks or any other Intellectual Property Rights of any third party, except to the extent the foregoing is attributable to the breach of the Specialty Retailer Agreement or these Terms by RETAILER or the negligence of willful misconduct of RETAILER, its agents, or subcontractors or any Customers using, installing, or integrating the AIRA Products. In the event AIRA fails to promptly indemnify and defend such claims and/or pay RETAILER'S expenses, as provided above, RETAILER shall have the right to defend itself, and in that case, AIRA shall reimburse RETAILER for all of its reasonable attorney's fees, costs and damages incurred in settling or defending such claims within thirty (30) days of each of RETAILER'S written requests.

13. RETAILER'S INDEMNIFICATION OBLIGATION. RETAILER shall indemnify, defend and hold AIRA and its employees, officers, directors, agents and representatives harmless from and against any and all claims, actions, losses, damages, demands, liabilities, costs and expenses, including reasonable attorney's fees and expenses, whether a suit or other proceeding is initiated or not, which may arise from any third party claim directly as a result of: (i) improper handling, transport, distribution, installation, integration, sale or storage of AIRA Products by RETAILER or any of its agents, or subcontractors, or any act or omission of RETAILER or any of its agents, or subcontractors after the AIRA Product has been delivered that causes the AIRA Product not to perform in accordance with the Specifications or not to be installed and/or integrated into the RETAILER Product in accordance with the Documentation; (ii) any negligence or willful misconduct of RETAILER, its agents or subcontractors or any Customers in the installation, integration, or use of the AIRA Products; and (iii) the improper Advertising, Marketing, or sale by RETAILER of the AIRA Products, except to the extent the foregoing is attributable to the breach of the Specialty Retailer Agreement or these Terms by AIRA or the negligence or willful misconduct of AIRA, its agents, or subcontractors in the development of the AIRA Product. In the event RETAILER fails to promptly indemnify and defend such claims and/or pay AIRA'S expenses, as provided above, AIRA shall have the right to defend itself, and in that case, RETAILER shall reimburse AIRA for all of its reasonable attorney's fees, costs and damages incurred in settling or defending such claims within thirty (30) days of each of AIRA'S written requests.

14. INSURANCE. RETAILER shall obtain, at its expense, property, commercial and liability insurance covering its obligations hereunder, in each case in amounts appropriate to the conduct of its business, as determined in its reasonable judgment. The policies of insurance obtained by RETAILER hereunder must state that the insurer shall notify AIRA at least thirty (30) days prior to termination, cancellation of, or any material change in, the coverage provided. RETAILER shall deliver to AIRA certificates of insurance evidencing satisfaction of its obligations under this Section.

15. LIMITATION OF DAMAGES. EXCEPT FOR A VIOLATION OF AIRA'S INTELLECTUAL PROPERTY RIGHTS OR BREACHES OF RETAILER'S CONFIDENTIAL OBLIGATIONS HEREUNDER, WHETHER RETAILER OR ITS AFFILIATES, IN NO EVENT SHALL EITHER PARTY OR ITS AFFILIATES BE LIABLE TO THE OTHER PARTY HERETO FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, PUNITIVE, OR INCIDENTAL DAMAGES (INCLUDING DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, AND THE LIKE) ARISING OUT OF THIS AGREEMENT, THE USE, INSTALLATION, OR INTEGRATION OF THE AIRA PRODUCTS, OR OTHERWISE, WHETHER OR NOT BASED ON TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY OR ANY OTHER THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

16. CONFIDENTIAL INFORMATION. All of the Confidential Information which RETAILER shall receive pursuant to the Specialty Retailer Agreement or these Terms, whether from AIRA or an

Authorized Distributor, other than information which at the time of receipt is in the public domain or subsequently has passed into the public domain or was otherwise known to RETAILER at the time of receipt, shall be kept confidential and shall not without the written approval of AIRA be used (except as expressly permitted by these Terms), or disclosed, published or made known to any other person other than employees, consultants or contractors of RETAILER and its Affiliates on a "need to know" basis, and RETAILER shall require that its and its Affiliates' employees, consultants and contractors to whom it makes disclosure of such Confidential Information keep such Confidential Information strictly confidential. Nothing contained in this Section shall prevent the disclosure of Confidential Information or any part of it by RETAILER to comply with the lawful requirement of government or other authority or of any competent court, tribunal, or authority to disclose the same. RETAILER will implement reasonable and appropriate physical, technical, and administrative measures designed to secure the Confidential Information against accidental or unlawful loss, access, or disclosure. AIRA will be irreparably harmed, and money damages would be inadequate compensation to AIRA in the event RETAILER breaches any provision of this Section. Accordingly, all of the provisions of this Section shall be specifically enforceable, and AIRA shall be entitled to injunctive relief against RETAILER, in addition to other available remedies, for the RETAILER'S breach of any provision of this Article. In the event of any known or suspected breach of confidentiality or security suffered by a RETAILER affecting Confidential Information, including any known or suspected unauthorized access to or misuse, loss, alteration or destruction of Confidential Information, RETAILER shall advise AIRA immediately, and notify in writing promptly thereafter, including all details of the breach of confidentiality or security. Upon termination or expiration of the Specialty Retailer Agreement, RETAILER shall immediately return to AIRA the originals and all copies of any Confidential Information.

17. NO AGENCY OR FRANCHISE; INDEPENDENT CONTRACTORS; TAXES; NO THIRD-PARTY BENEFICIARIES. Nothing in the Specialty Retailer Agreement or these Terms shall be construed to make either Party the agent of the other Party and neither Party shall hold itself out as an agent of the other Party or shall be liable or be bound by any act or omission of the other Party. AIRA and RETAILER are, and at all times during the Term shall remain, independent contractors. The Parties specifically acknowledge that these Terms create a manufacturer/wholesale retailer relationship between them and that, although AIRA retains certain rights and controls, such rights and controls are usual and customary for the industry and necessary to protect the AIRA IP and the goodwill associated therewith. RETAILER agrees that it is solely responsible for all operating expenses resulting in any way from performance of its obligations under these Terms, including, without limitation all wages, benefits, and other compensation due and owing to its employees and permitted agents, insurance, fees, and other governmental charges. RETAILER will bear all taxes, duties and other governmental charges relating to or arising under the Specialty Retailer Agreement and these Terms or relating to the operation or ownership, including without limitation, any state or federal income taxes (except taxes on AIRA'S income), employment and withholding taxes or charges and related insurance premiums or payments, any stamp or documentary taxes or duties, turnover, sales or use taxes, goods and services tax, excise duties, customs or exchange control duties and any other duties/charges/taxes relating to or on any payment by RETAILER to AIRA and/or any other duty/tax as may be leviable. RETAILER acknowledges that it is relying on its own knowledge, skill, and expertise in the industry in entering into the Specialty Retailer Agreement and these Terms; that it is not relying upon any submission, plan, representation, or warranty other than as explicitly set forth herein; and that the Specialty Retailer Agreement and these Terms do

not create a franchise. No third party shall be a beneficiary of the Specialty Retailer Agreement or these Terms, including any and all approved sub-RETAILERS and independent sales agents.

18. **GOVERNING LAW.** This Agreement shall be interpreted and construed in accordance with the laws of the State of Delaware, without regard to conflicts of law principles. THE UNITED NATIONS CONVENTION ON THE INTERNATIONAL SALE OF GOODS IS EXPRESSLY EXCLUDED AND SHALL NOT APPLY TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY. In the event a dispute arises regarding the Specialty Retailer Agreement or these Terms, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and costs, in addition to other relief to which it is entitled.

19. **ENTIRE AGREEMENT.** These Terms, and the Specialty Retailer Agreement, constitute the entire agreement between the Parties regarding the subject matter hereof and supersedes all prior oral or written agreements or understandings. This Agreement can only be amended by a writing signed by both Parties. If any provision of these Terms is judicially determined to be invalid, void, or unenforceable, the remaining provisions shall remain in full force and effect. Sections 7, 10, 12, 13, 15, 16, 18, 19 and 21 shall survive any expiration or termination of these Terms.

20. **FORCE MAJEURE.** Neither Party shall be liable for delays or non-performance due to any events beyond its control, including acts of god, natural casualties, acts of war or terror, strikes, invasions, civil war, or rebellion ("**Force Majeure Event**"). If a Force Majeure Event occurs, the Party whose performance is affected shall give the other Party written notice within ten (10) days of such occurrence, detailing the circumstances of the Force Majeure Event and an estimate of the anticipated delay in performance. The Party whose performance is affected will use commercially reasonable efforts to develop a mutually acceptable work around plan in an attempt to minimize the impact of the Force Majeure Event. Performance shall be promptly resumed upon termination of the Force Majeure Event.

21. **DEFINITIONS.** Except as otherwise defined in the body of these Terms or in the Specialty Retailer Agreement, capitalized terms used herein shall have following definitions:

(a) "**Advertising,**" "**Advertisement,**" or "**Advertise**" means any form of communication in any media (including radio, television, print, and Internet) directed to the applicable retail trade or to the public, including cooperative advertising, with respect to the sale and distribution of Charging Countertops or other items incorporating or utilizing, directly or indirectly, any of the AIRA IP.

(b) "**Affiliate**" means with respect to a Party, any person, third party, or business entity and any if its derivatives that control, is controlled by, or under common control with such Party. For purposes hereof, a business entity or its derivatives shall be deemed to own and/or to control a Party if (i) more than 50% (fifty percent) of the voting stock of such Party, ordinarily entitled to vote in the election of directors (or, if there is no such stock, more than 50% (fifty percent) of the ownership of or control in such Party) is held by and consolidated in the annual accounts of the owning and/or controlling business entity and any of its derivatives; or (ii) any person, third party, or business entity and any of its derivatives that possess, whether directly or indirectly, the power to direct or cause the direction of the management and policies of a Party, whether through the ownership of voting securities or voting interests, by contract or otherwise.

(c) "**AIRA IP**" means, collectively, (i) all materials, technology, specifications, including the brand specifications, the FreePower® Brand, the Wireless Charging Technology, the Documentation, any designs, technology, and other Information related thereto, that is owned or

controlled by AIRA or any of its Affiliates, including, but not limited to all enhancements, improvements or derivative works of the foregoing; (ii) all processes, new materials, technology, specifications, designs, and other intellectual property relating to integration, use or application of the AIRA Products and/or Wireless Charging Technology with and within the Charging Countertop; and (iii) all Intellectual Property Rights arising from the foregoing (i) and (ii).

(d) "**AIRA Products**" means the charging module embodying the Wireless Charging Technology, as more fully set forth in the Specialty Retailer Agreement and incorporated herein by reference, and as may be amended from time to time by AIRA.

(e) "**Applicable Laws**" means all applicable laws and regulations, including, but not limited to, all local and municipal ordinances and the regulations of any agency or public authority having jurisdiction over the sale or distribution of Charging Countertops.

(f) "**Certified Fabricator**" means an independent fabricator of Charging Countertops that (i) is certified and approved by AIRA to fabricate Charging Countertops using AIRA Products; and (ii) that enters into AIRA's Wholesaler Agreement.


(g) "**Charging Countertop**" means the countertop product incorporating one or more AIRA Products.

(h) "**Confidential Information**" means any proprietary information, trade secrets or other know-how of AIRA relating to its business and to the business of its Affiliates that is disclosed to or learned by RETAILER, including but not limited to all designs, technical data, ideas, uses, processes, methods, work in process, or any manufacturing, marketing, business plan, financial or personnel matter relating to AIRA, its present or future products, sales, suppliers, customers, employees, investors or business, whether in oral, written, graphic or electronic form.

(i) "**Defect**" means a Product's failure to meet applicable specifications published by AIRA, defect in materials and/or workmanship, or malfunction, in each case that causes Product inoperability or significantly degraded Product performance.

(j) "**Documentation**" means the published instructions, Specifications (as defined herein) and materials, including the brand specifications (as defined herein), for the AIRA Products for the integration with Charging Countertops.

(k) "**Epidemic Failure**" means, during the period that AIRA's standard consumer limited warranty applies to such Units, a Defect in more than one Unit where each such Defect (1) has a similar root cause, and (2) such Defects occur in five percent (5%) or more of Units received by RETAILER in any delivery lot or otherwise causes Unit returns for warranty issues in three percent (3%) or more of Units received by RETAILER over any three (3) month period.

(l) "**FreePower® Brand**" means any AIRA brand or trade name associated with the Wireless Charging Technology, including, but not limited to the use of "Engineered with FreePower", the trademark "FreePower," the  logo, or any trademark and service marks in connection with or in any way related to the AIRA Products.

(m) "**FreePower® Brand Guidelines**" means the written guidelines provided by AIRA for use of the FreePower® Brand.

(n) "**Information**" means any and all oral, written, graphic or machine-readable information including, but not limited to, that which relates to patents, patent applications, research, plans, developments, inventions, processes, designs, drawings, engineering, markets, software, and firmware (including source and object code), hardware configuration, algorithms, business plans, agreements with third parties,

services, customer information and data, marketing, or finances of a Party.

(o) **“Intellectual Property Rights”** means any patents, utility certificates, utility models, industrial design rights, copyrights, database rights, trade secrets, any protection offered by law to Information (as defined herein) and all registrations, applications, renewals, extensions, combinations, divisions, continuations or reissues of any of the foregoing, or any other intellectual or industrial rights and any applications for registration or granted registrations for any of the foregoing anywhere in the world.

(p) **“Marketing”** or **“Market”** means all sales and distribution activities, strategies, and plans for any of the Charging Countertops or other items incorporating or utilizing, directly or indirectly, any of the AIRA IP, including any promotional, selling, or initiatives materials (including packaging, point-of-sale materials, hang tags, and other in-store visuals) of any description whatsoever in relation to any of the Charging Countertops or other items incorporating or utilizing, directly or indirectly, any of the AIRA IP.

(q) **“Price”** means the discounted price set forth in the Specialty Retailer Agreement charged for the AIRA Products, if purchased directly from AIRA. AIRA Products purchased from Authorized Distributors shall be subject to the then-current pricing and terms and conditions of sale established by such Authorized Distributor.

(r) **“Specifications”** means, with respect to the AIRA Products, the specifications described in the applicable Documentation, as such Documentation may be amended from time to time at the discretion of AIRA.

(s) **“Specialty Retailer Agreement”** means the Specialty Retailer Agreement entered into between AIRA and RETAILER, as may be amended, from time to time in accordance to its terms.

(t) **“Wireless Charging Technology”** means AIRA’S proprietary location-free wireless charging technology.