

Jireh Technologies, LLC / Mountain Photonics GmbH

Distribution Agreement

This Agreement made and entered into this 28th day of January, 2019 by and among Jireh Technologies, LLC and Jireh Scientific Imaging having its principal offices at 1800 E. State Street Trenton, NJ 08609 USA (hereinafter called „Manufacturer“), and Mountain Photonics, having its principal offices at Albert-Einstein-Str. 18 86899 Landsberg am Lech- Germany (hereinafter called „Distributor“).

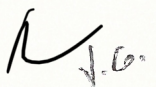
1. Appointment, Acceptance and Territory

Manufacturer hereby appoints the Distributor (its successors or assigns) as the exclusive distributor in the Territory of Germany, Austria and Switzerland (to the exception of House Accounts) and the Distributor accepts the appointment and agrees to sell and promote the sale of Manufacturer's products in the Territory. The Products and House Accounts are as specified on Appendix I „Products and House Accounts“.

Additions to the product line manufactured by the Manufacturer will be notified to Distributor promptly after introduction of such new product via new Data Sheets. However Distributor may decline to promote new products by notification in writing within thirty days of the new Product announcement.

2. Distributor's Duties, Relationship and Conduct of Business

- a) Distributor shall maintain sales offices in the Territory and shall maintain a selling organisation in the Territory, and the Distributor shall use its best efforts and devote such time as may be necessary to sell and promote Manufacturer's products within the Territory.
- b) Distributor will conduct all of its business in its own name and in such manner as it may deem fit and will pay all expenses whatsoever of its offices and activities and be solely responsible for the acts and expenses of its employees.
- c) Nothing contained in this Agreement shall be construed to constitute the Distributor as the partner, joint venturer, agent or employee of Manufacturer nor shall either party have any authority to bind the other in any respect, it being that each shall remain an independent contractor responsible only for its own actions.



3. Exclusivity

The Distributor shall have the exclusive right to sell, or otherwise distribute the Manufacturer's products as described in Appendix 1 „Products“ in the Territory.

- a) Manufacturer agrees that it will not knowingly, during the term of this Agreement, sell the Products directly or indirectly to any person in the Territory other than the Distributor.
- b) In the event that a covered Product is purchased inadvertently through any company and directly exported, the Distributor will be entitled to a commission payment equal to fifteen percent (15%) applied to the net invoice paid by such company. Such commission is payable within 30 days of Manufacturer's receipt of payment from the company.
- c) In special cases when larger quantities are involved and/or price competition suggests it desirable, Distributor may ask Manufacturer to take an order direct. Such cases will need to be mutually agreed in writing and are not meant to dilute the exclusivity of Distributor's franchise. Manufacturer will pay to Distributor a commission to be negotiated in advance for each such case and payable within 30 days of Manufacturer's receipt of payment from a customer. Manufacturer will provide Distributor copies of invoices and timely reports concerning such anticipated commissions.
- d) In consideration of the exclusive distributorship granted to the Distributor under the provisions of this Article, the Distributor agrees to refrain from selling or distributing any product in the Territory during the term of this Agreement which is directly competitive with the Products, without first obtaining prior written approval from Manufacturer. It is agreed that the existing supplier list of Distributor (as can be checked on Distributor's web site) at time of signature of this agreement does not constitute a conflict of interest. Should an existing supplier release products in the course of this Agreement which are competitive in this sense a gentlemen's agreement should be found.

4. Purchase Price and Terms of Sale

Manufacturer agrees to sell products to the Distributor for resale by the Distributor to customers in the Territory upon receipt of written orders from the Distributor, such orders shall be subject to the terms and conditions of this Agreement.

The prices for the Products are contained in **Appendix I** and may be varied from time to time with not less than ninety (90) days prior written notice to Distributor, F.O.B. factory. The discounts off the published Price Lists are set out in **Appendix II**.

- a) Orders placed to the manufacturer will be deemed accepted if no notification to the contrary is received within five (5) days of the order being placed.

- b) Payment terms may vary from forty-five (45) to sixty (60) days end of month.

5. Assistance to Distributor

- a) During the term of this Agreement, Manufacturer agrees to make available to the Distributor, upon request and without charge, a supply of sales literature in the English language, including catalogues, data sheets, bulletins, samples and other currently available material requested by Distributor and will provide the Distributor with sales and technical assistance in the Territory to the extent reasonably requested by the Distributor, all costs and expenses in connection therein to be paid by Manufacturer.
- c) Manufacturer will refer to Distributor for reply and processing all inquiries, orders, communications and leads of any kind which Manufacturer or their agents may receive whenever the Products referred to therein are to be shipped directly or indirectly into Distributor's Territory.
- d) Manufacturer will list Distributor on his website as point of contact for the Territory in a prominent place (for example in a list of worldwide Distributors)
- e) Manufacturer will make sure all products conform to CE legislation and all related documents (like the Declaration of Conformity) are issued under the sole responsibility of the Manufacturer and shipped with the product. On request the Manufacturer will also provide the related test reports that were generated in the process of testing the equipment for CE compliance.

6. Term of Agreement

This Agreement shall run for a period of one (1) year from the date this Agreement is executed. At the expiration of this period, the Agreement shall run indefinitely unless cancelled by either party on one hundred and twenty (120) days written notice. Should Manufacturer cancel the Agreement, the Distributor will be entitled to a thirty (30) % compensation on all orders, resulting from a list of outstanding quotations or identified opportunities to be supplied by Distributor within thirty (30) days of the effective termination date, placed directly or indirectly with Manufacturer for ultimate destination in Distributor's Territory within one hundred and eighty (180) days after such termination. For orders placed within the following one hundred and eighty (180) days, Distributor will be entitled to a fifteen (15) %, such compensation to be based on end-user price and to be paid by Manufacturer to Distributor within 30 days of payment receipt from customer by Manufacturer.

7. Obsolete Products and Inventory Protection

- a) It is Distributor's responsibility to attempt to sell older products as soon as possible, and it is the Manufacturer's responsibility to notify Distributor at least ninety (90) days in advance before Products are to be significantly updated or obsolete.
- b) Manufacturer will take back any Products in Distributor's inventory which become obsolete and which Distributor cannot sell and replace them with updated Products of the same original value, provided however, that any such return is within 3 (three) years of purchase.
- c) In the event of termination by the Manufacturer, of this Agreement, Manufacturer agrees to repurchase, at Distributor's option exercised within thirty (30) days following the effective date of termination, all inventory held by Distributor at the original cumulative purchase price, provided however, that any such inventory was received by Distributor within 3 (three) years of notice of termination.

8. Warranty

Manufacturer warrants that all Products shall be free from any defects and shall conform to their specifications for a minimum period of one year from the date of installation into end-user facility or 13 months after delivery from factory, whatever comes first. Manufacturer's sole responsibility is to ensure such Products conform to its specifications. Notwithstanding the above, Manufacturer warrants to Distributor that, to the knowledge of Manufacturer, the Products do not infringe any third party industrial rights in the Territory including, but not limited to, patents, utility modes, trademarks and copyrights. Manufacturer agrees to indemnify and hold Distributor and their subsidiaries, agents and purchasers harmless from any loss, liability, fees, expenses or damages which they, or any of them, may incur or suffer by reason of any infringement or alleged infringement of any local or foreign patent, trademark, copyright or other rights as a result of the sale or use of any Products or Manufacturer's literature.

9. Trade Mark Infringement

If the Distributor becomes the subject of, or in the Distributor's sole and reasonable opinion there is a serious risk that the Distributor could become the subject of proceedings for infringement, Distributor shall have the right, at its sole discretion to require Manufacturer at its own expense to:

- a) procure the right for the Distributor to continue using the Product
- b) carry out a modification to the Product so that it no longer infringes the third party's intellectual property rights and make appropriate revisions to the documentation supplied by Manufacturer.

10. Intellectual property

Manufacturer warrants that any and all Products purchased hereunder, and the manufacture, sale or use thereof, do not and will not violate or infringe upon any patent, copyright, trademark, trade secret or other property right of any third party; that Manufacturer will, at its own cost and expense, defend any suit that may arise in respect thereto or in respect to the combination of any Product with any equipment, data or programming, to the extent that the claim alleges that the Product standing alone infringes such rights, and provided Manufacturer is notified thereof; and that Manufacturer will indemnify and hold harmless Distributor, its successors and assigns, and the customers of any of them, from all loss, damages, costs and expenses (including reasonable attorneys' fees and costs of establishing rights to indemnification) which may be incurred on account of the assertion of any such property rights by any person.

11. Mutual Confidentiality

Each of the parties shall keep confidential all information and documents provided by the other party and relating to that party's business or the subject matter of this Agreement ("Confidential Information"). Such information disclosed by the disclosing party will be considered Confidential Information by the receiving party, only if such information is clearly designated as "Confidential", or if provided verbally, identified as confidential at the time of disclosure and confirmed in writing within thirty (30) days of disclosure. Neither parties shall, without the prior written consent of the other party, disclose Confidential Information to any third party, and each party shall take the appropriate measures to ensure that such confidentiality is preserved.

Notwithstanding the above, a party may disclose Confidential Information:

- a) if and to the extent that the information is in the public domain through no fault of the disclosing party, or
- b) if and to the extent required by law or for any judicial proceedings
- c) if and to the extent that the information was already known or becomes known from a third party other than by breach of confidence.

12. Notices

Notices shall be deemed to be delivered and given on the date that such notice, in writing, is deposited in the postal box preaddressed to the party to be notified at its principal place of business and airmailed, certified or registered mail. Either party may change the address where notices shall be delivered by written notice to the other party in accordance with the terms of this Article.

13. Liability

Notwithstanding any other provision in this Agreement, manufacturer agrees to indemnify and hold Distributor harmless of and from any and all liabilities, losses and damages (including costs, expenses and attorneys' fees and costs establishing rights to indemnification) resulting from any claim of any of Distributor's customers or any other third party, including employees of Distributor or manufacturer, for death, personal injury, breach of warranty, or damage to property arising out of, or in any way connected with, the products or the use or operation thereof. Manufacturer at its sole cost and expense agrees to defend any and all claims, actions, suits or proceedings brought against Distributor in connection therewith, upon notice of pendency thereof, and to pay and satisfy any and all judgements, costs, attorney's fees, awards or recoveries relating thereto.

14. Assignability

Either party shall be entitled to assign this Agreement with the prior written consent of the other party (consent not to be unreasonably withheld).

15. Termination

Distributor shall be entitled by notice in writing to Manufacturer to terminate this Agreement if Manufacturer shall commit or allow to be committed any breach of the terms of this Agreement and if such breach be capable of remedy shall not be so remedied within ten (10) working days of notice thereto.

If either party to this Agreement shall become insolvent or commence to be wound up (other than by member's voluntary winding up for the purpose only of amalgamation or reconstruction) or have appointed to it or any of its assets a Receiver the other party may at its option:

- a) terminate the Agreement by giving notice in writing to the other party or to any liquidator, receiver or person in whom the other party's interest under the Agreement has become vested, or
- b) offer the liquidator, receiver or other person in whom the other party's interest under this Agreement has become vested the opportunity of assuming the benefit and burden of the Agreement subject to his providing to the reasonable satisfaction of the party giving notice a guarantee or other form of assurance of the due performance of the obligations under the Agreement.

Any termination of this Agreement shall be without prejudice to the accrued rights and liabilities of the parties at the date of termination.

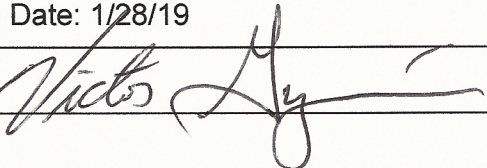
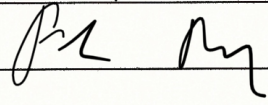
16. General

- a) This Agreement contains the entire understanding of the parties; it shall supersede any other verbal or written Agreements concerning the subject matter herein and shall be binding upon and inure to the benefit of the respective parties and their successors.
- b) This Agreement may not be modified in any way without the written consent of both parties and neither party shall have the right to assign this Agreement, in whole or in other part, without the prior written consent to the others.
- c) Applicable Law: This Agreement shall be governed by CISG law construed in accordance therewith in respect of disputes arising out of or in connection with this Agreement.
- d) Neither party hereto shall be responsible to the other for failure to or delay in the performance of this Agreement due to acts of God, strikes, labour disputes, floods, fire, civil commotion, war, riots, governmental rules or laws, embargoes or other unavoidable causes, provided that such party shall give prompt notice thereof to the other party and recommence its performance immediately after the termination of such event; if such event lasts more than one hundred eighty (180) days, either party shall have the right, at its option, to terminate this Agreement, effective upon written notice.
- e) If any provision of this Agreement is held void or illegal by any tribunal of competent jurisdiction, the remainder of this Agreement shall be deemed binding upon the parties hereto.

17. Non-hiring obligation

During the life of this Agreement and for one (1) year after the effective date of termination of the Agreement for any reason, Manufacturer agrees not to knowingly hire, employ, use or associate, directly or indirectly, through or by Manufacturer's affiliates, or otherwise, with any person who is employed by Distributor or their subsidiaries on the effective date of termination, or who was so employed within one (1) year prior thereto, nor to contract or deal in any way with Distributor's employees or agents, without obtaining in each instance Distributor's prior written consent, which consent will not unreasonably withheld. Similarly, Distributor agrees not to knowingly hire, employ, use or associate, directly or indirectly, through or by Distributor's affiliates, or otherwise, with any person who is employed by Manufacturer or their subsidiaries on the effective date of termination, or who was so employed within one (1) year prior thereto, nor to contract or deal in any way with Manufacturer's employees or agents, without obtaining in each instance Manufacturer's prior written consent, which consent will not unreasonably withheld.

IN WITNESS HEREOF, the parties hereto have set their respective hands by their duly authorised officers, on the day and year first above written.

Manufacturer: Jireh Technologies, LLC – Jireh Scientific Imaging	Distributor: Mountain Photonics GmbH
By: Victor Guzman	By: Fritz Tichler
Title: Owner	Title: GM
Date: 1/28/19	Date: 2 / 2 / 19
	



APPENDIX I

PRODUCTS, PRICE LIST & HOUSE ACCOUNTS

Products included in this agreement :

Order code or product group	Description	Domestic list	Intl.List	Discount on intl list
all Jireh Products				

Price list of standard products :

Refer to "JSI Product price list_Rev B_Simplified.pdf"

Order code or product group	Description	Domestic list	Intl.List	Discount on intl list

House accounts excluded from this agreement :

Customer	Department	User	Product