

INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

The terms and conditions set forth below of this Indemnification and Hold Harmless Agreement (“Indemnification Agreement”) are made a part of, and incorporated by reference in, the purchase order (the “Purchase Order”) issued by Feit Electric Company, Inc. (“Feit Electric”) and accepted by supplier (“Supplier”) and is in partial consideration for Feit Electric’s purchase of the items from Supplier set forth on the applicable purchase order (“Items”).

A. Supplier acknowledges and agrees the amounts paid by Feit Electric for the Items includes consideration for not only the Items, but also for the terms and conditions of this Indemnification Agreement, and that such consideration is fair, reasonable, adequate and sufficient.

B. Supplier agrees to indemnify and hold harmless, at Supplier’s own cost, Feit Electric and its affiliates, the customers and distributors of each of the foregoing, the officers, directors, agents, employees and program sponsors of each of the foregoing, and the successors and assigns of each of the foregoing (individually and/or collectively “Feit Electric Indemnitees”) from and against all claims, suits, causes of action, judgments, damages, losses, penalties, costs, disbursements, expenses and attorneys’ fees including suits, losses, claims, causes of action, judgments, damages, penalties, costs, disbursements, expenses and attorneys’ fees which may be asserted, alleged, demanded, claimed, recovered or otherwise incurred or sustained by any of the Feit Electric Indemnitees as a result of or in connection with any of the Feit Electric’s Indemnitees’ importation, use, purchase, distribution, promotion, offer for sale or sale of any of the Items, including without limitation, suits, losses, claims, judgments, damages, penalties, costs, disbursements, expenses including, alleging: (i) personal injury; (ii) death; (iii) property damage; (iv) infringement of any third party’s patent, copyright, trade secrets, trademark, trade dress or other intellectual property right; (v) or violations of any federal, state or local laws, rules, ordinances, or regulations including those with respect to product safety, labeling, packaging, weight, quality and consumer protection (individually and/or collectively “Claim” or “Claims”).

C. Supplier shall have no obligation under this Indemnification Agreement: (i) to the extent a Claim is for trademark infringement for use of a trademark owned and used by Feit Electric in connection with an Item to which Feit Electric applied such trademark; (ii) subject to the immediately following sentence, to the extent a Claim is for patent infringement of a third party patent arising out of Supplier’s manufacture of an Item in accordance with the exact

specifications provided by Feit Electric to SUPPLIER; and (iii) subject to the immediately following sentence, to the extent that a Claim for damages based on a manufacturing defect arises from the manufacture of an Item in accordance with the specifications provided by Feit Electric to Supplier. Supplier acknowledges agrees that the exclusion of liability or obligation pursuant to (a) subsection (ii) in the immediately preceding sentence shall not apply in those cases where the infringement could have been avoided by the use of a non-infringing method or process, or part or component, in the manufacture of the Item; and (b) subsection (iii) in the immediately preceding sentence shall not apply in those cases where the manufacturing defect is not a direct result of manufacturing the Item in accordance with the exact specifications provided by Feit Electric to the Supplier.

D. Supplier, at its sole cost and expense, even if any such allegation of liability is groundless, false or fraudulent, shall assume the defense of any such Claim upon written notice from the applicable Feit Electric Indemnitees.

E. The provisions set forth below shall govern the defense of such Claims by Supplier.

- (i). Supplier (a) shall select counsel acceptable to the applicable Feit Electric Indemnitees to conduct defense of such Claims; and (ii) at its sole expense, shall take all steps necessary in the defense or settlement thereof.

- (ii). Supplier shall ensure that (i) the applicable Feit Electric Indemnitees are copied on all correspondence, legal documents and any documents related to the Claim; and (ii) no action is taken without the prior written consent of the applicable Feit Electric Indemnities.

- (iii). Supplier shall not consent to a settlement of, or entry of any judgment arising from, any such Claims without the prior written consent of the applicable Feit Electric Indemnitees, (i) if such settlement or judgment purports to impose any obligation, liability or restriction on the applicable Feit Electric Indemnitees; or (ii) where such settlement shall have any effect on any of the Feit Electric Indemnitees' right to import, use, purchase, distribute, promote, offer for sale or sell any of the Items.

- (iv). Feit Electric Indemnites shall be entitled to participate in the defense of any such action with its own counsel at the Supplier's expense. Feit Electric Indemnites may take over the defense at any time if it feels that that Supplier has not competently and adequately defended or that it would be reasonable for Feit Electric Indemnites to take over the defense, at the sole expense and cost of Supplier and defend against such Claims in such manner as they may deem appropriate, including, but not limited to, settling such Claims after giving written notice of the same to Supplier. In any action by Feit Electric Indemnites seeking indemnification from Supplier as a result of failure by the Supplier to competently assume the defense of such Claims, to acknowledge their obligation to fully indemnify, defend and hold harmless Feit Electric Indemnites, or to pay amounts due under any settlement or judgment, Feit Electric Indemnites shall be entitled to all costs and expenses incurred in enforcing this Indemnification Agreement, including but not limited to attorneys' fees and expenses.
- (v). Feit Electric Indemnites may agree to cooperate in the defense of any such Claims by providing (at Supplier's expense) necessary and appropriate information, documents and witnesses, to the extent available. Each party shall give immediate written notice to the other of any and all actions and proceedings that may give rise to a claim by Feit Electric Indemnities against Supplier hereunder. The failure of Feit Electric Indemnites to timely give the required notice shall not be a defense to the liability of Supplier for such claim, except (and only) to the extent that Supplier can demonstrate an actual loss or prejudice as a result of such failure.

F. Supplier's agreement to defend, indemnify and hold harmless Feit Electric Indemnites under the terms above is (i) independent of and in addition to Supplier's agreement to procure insurance as required; and (ii) independent of and in addition to all other rights and recoveries available to Feit Electric Indemnites, whether in law or in equity. Supplier's insurer's position regarding insurance coverage for Feit Electric Indemnites, as an additional insured, does not in any way modify or limit Supplier's agreement or obligation to defend, indemnify and hold harmless Feit Electric Indemnites as required in the terms above.

G. Supplier hereby warrants and represents that no Item sold or otherwise provided to any of the Feit Electric Indemnites by or on behalf of Supplier infringes, misappropriates or otherwise violates, or has been accused of infringing, misappropriating or otherwise violating, any patent or other intellectual property rights of any third party.

H. In any action to enforce the terms of this Indemnification Agreement, the prevailing party shall be entitled to all costs and expenses, including but not limited to attorneys' fees