

Agreement Disclaiming Warranties and Releasing Liability for Face Shields

This Agreement Disclaiming Warranties and Releasing Liability for Face Shields (“Agreement”) is made between Wahl Clipper Corporation, an Illinois corporation located at 2900 Locust Street, Sterling, Illinois (“Wahl”), and _____, located at _____ (“Buyer”).

Background

In April 2020, the FDA issued an Emergency Use Authorization (“EUA”) in response to concerns about insufficient supply of face shields for use by healthcare personnel as personal protective equipment in healthcare settings during the COVID-19 pandemic. The FDA’s letter of authorization sets forth conditions of authorization for face shield manufactures.

Wahl is a manufacturer of electric hair clippers, hair trimmers, and shavers. Wahl lacks expertise related to personal protective equipment or healthcare personnel. Wahl is manufacturing and distributing face shields for medical purposes in response to the public health emergency pursuant to the EUA.

The face shields have not been FDA cleared or approved. The face shields consist of a band and shield made of either PET or polyvinyl chloride (PVC). The face shields are intended for a single user, single use. They are not intended for use in the presence of a high intensity heat source or flammable gas. The face shields are not intended for antimicrobial or antiviral protection or radiation protection.

Face shields have been authorized by the FDA under an EUA for use by healthcare providers as PPE. The product is only authorized for the duration of the declaration that circumstances justifying the authorization of emergency use under Section 564(b)(1) of the Act, 21 USC 360bbb-3(b)(1) unless the authorization is terminated or revoked sooner.

Agreement

In consideration of the promises and conditions expressed herein, the parties agree as follows:

1. Disclaimer. Wahl will sell to Buyer, and Buyer agrees to accept, face shields “as is.” Wahl makes no express or implied warranty of merchantability or fitness for a particular purpose. In no event shall Wahl be liable for incidental, consequential, or special damages resulting from defect in the face shields, any use of face shields, or any breach of this agreement between the parties.
2. Release, Waiver of Liability, Defense, Indemnify, and Hold Harmless. Buyer and/or users release and forever discharge Wahl from any liability arising from the manufacture, sale, or use of face shields. Buyer further understands and agrees that Wahl shall not be liable for any injuries or damages, including any consequential, incidental, indirect, punitive or special damages arising from or related to this Agreement or the sale or use of face shields sold to Buyer. Buyer will hold harmless, defend and indemnify Wahl against any claims, losses, or liabilities, without limitation, arising from or related to this Agreement or the sale or use of face shields sold to Buyer.
3. Insurance. Buyer will maintain comprehensive general liability insurance with minimum limits of no less than \$1,000,000 personal injury. Such insurance must provide products liability coverage on a completed operations basis for services performed. Wahl must be named as an additional named insured with right of 15 days prior to notice before cancellation.

4. Choice of Law. This Agreement will be governed by and interpreted in accordance with the laws of the State of Illinois, without regard to conflicts of law. Any dispute related to this Agreement or its subject matter shall be litigated in the courts of Whiteside County in the State of Illinois.
5. Headings. The subject headings of the sections of this Agreement are included for purpose of convenience only and will not affect the construction or interpretation of any of its provisions.
6. Entire Agreement; Amendment; Waiver. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations and understandings of the parties relating to this subject matter, and will not be affected by any agreement or understanding among the parties that was effective before the date of this Agreement. No supplement, modification or amendment of this Agreement will be binding unless it is executed in writing by all parties. No waiver of any of the provisions of this Agreement will be deemed to be, or will constitute, a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver. No waiver will be binding unless it is executed in writing by the party making the waiver.
7. Severability. If any provision of this Agreement is held invalid or unenforceable by any court of final jurisdiction, the parties intend that all other provisions of this Agreement be construed to remain fully valid, enforceable and binding on the parties.

Wahl and Buyer executed this Agreement on the date set forth below.

Wahl

Buyer

By: *Tim Stephens*

By:

Name: *Tim STEPHENS*

Name:

Title: *Dir. of Special Operation Projects*

Title:

Date: *5/11/2020*

Date: