

## TERMS AND CONDITIONS OF PURCHASE

In these Terms and Conditions of Purchase, "Buyer" shall mean the ZES entity listed on the face of the purchase order and "Supplier" shall mean the person or legal entity selling goods or services to Buyer.

### 1. ACCEPTANCE.

Buyer's purchase order, including these Terms and Conditions of Purchase, is Buyer's offer to Supplier. Upon acceptance by Supplier, either by acknowledgement, commencement of services or shipment of goods, by delivery of any items ordered, or otherwise, Buyer's purchase order, including these Terms and Conditions of Purchase, shall be a binding contract ("Agreement").

**THIS AGREEMENT IS LIMITED TO THE TERMS AND CONDITIONS SPECIFIED IN THIS DOCUMENT AND ANY ATTACHMENTS WHICH FORMS AN INTEGRAL PART THEREOF. BUYER DOES NOT AGREE TO AND EXPRESSLY REJECTS ANY PROPOSED ADDITION, ALTERATION OR DELETION BY SUPPLIER (WHETHER IN A QUOTATION, ORDER ACKNOWLEDGEMENT, INVOICE OR ANY OTHER DOCUMENT OR COMMUNICATION) TO THESE TERMS AND CONDITIONS OF PURCHASE. ANY STATEMENT OR WRITING OF SUPPLIER SHALL NOT OPERATE TO ALTER, ADD TO, AMEND, OR OTHERWISE AFFECT THIS AGREEMENT. IF THIS AGREEMENT IS DEEMED AN ACCEPTANCE OF A PRIOR OFFER BY SUPPLIER, ACCEPTANCE IS EXPRESSLY LIMITED TO THE TERMS CONTAINED WITHIN THIS DOCUMENT.**

### 2. DELIVERY.

(a) TIME IS OF THE ESSENCE FOR THE PURPOSES OF SUPPLIER'S OBLIGATIONS UNDER THIS AGREEMENT. All goods shall be delivered Delivered Duty Paid ("DDP") (Buyer's ship to location) Incoterms 2010 for domestic delivery and Delivered at Place ("DAP") (Buyer's ship to location) Incoterms 2010 for cross boundary delivery and risk and title to the goods (free and clear of any encumbrances) shall pass to Buyer on delivery. Supplier shall make no deliveries before the agreed delivery date(s) and Buyer shall not be liable for any costs caused by or related to production, installation, assembly, commissioning or any other work related to such goods prior to delivery. If goods are not delivered by the date specified in the Agreement ("Delivery Date"), Buyer will be entitled, in addition to its other rights and remedies, to terminate, without liability, this Agreement as to items not yet shipped, by written notice effective upon receipt by Supplier. In this instance, Buyer may purchase substitute goods elsewhere and charge Supplier for any loss incurred. If it appears that Supplier will not meet the Delivery Date, Supplier will (i) immediately notify Buyer and (ii) ship by air freight or other expedited routing, at Supplier's expense, if and in the manner requested by Buyer. If only a portion of the goods are available for shipment to meet the Delivery Date, Supplier will notify Buyer and ship the available goods, unless otherwise directed by Buyer. Buyer may return any unauthorized under-shipment or any over-shipment at Supplier's risk and expense. Where the Agreement provides for installation, commissioning or any other work to be carried out by Supplier, such work shall be executed with good workmanship and using proper materials. As a minimum requirement, such goods shall comply with all applicable quality and certification standards.

(b) For all software provided by Supplier ("Software"), Supplier grants to Buyer and its Affiliates a perpetual, non-exclusive, transferable, irrevocable, royalty-free, worldwide right and license to use, reproduce, prepare derivative works of, distribute, sell, offer to sell, and import the Software in connection with Buyer's distribution and support of the goods including without limitation distribution in electronic form (e.g. via Buyer's website). Supplier agrees to provide all updates and modifications to the Software to Buyer during the term of the Agreement without additional charges.

### 3. PACKING AND SHIPMENT.

Supplier shall pack, mark and ship the goods in such manner as to prevent damage during transport and which facilitates unloading, tracking, handling and storage. Unless otherwise specified, when the price under this Agreement is based on the weight of ordered goods, such price covers net weight of material ordered only. Any charges for boxing, crating, handling, storage or other packing requirements shall be stated separately on Supplier's invoice. Supplier shall mark all containers with necessary lifting, handling and shipping information and also purchase order numbers, release numbers, dates of shipment, and the names of the consignee and consignor. An itemized packaging sheet must accompany each shipment.

### 4. CHANGES.

Buyer may at any time, by a written and/or verbal order and without notice to sureties or assignees, suspend performance hereunder, increase or decrease the ordered quantities or make changes within the general scope of this Agreement in any one or more of the following ways: (a) applicable drawings, designs or specifications; (b) method of shipment or packing, and/or, (c) place of delivery and/or delivery schedule. If any such change causes an increase or decrease in the cost of, or the time required for performance of this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or

both, and the Agreement shall be modified in writing accordingly. No claim by Supplier for adjustment shall be valid unless asserted within twenty (20) days from the date of receipt by Supplier of the notification of change provided, however, that such period may be extended upon the written approval of Buyer. Nothing in this Section shall excuse Supplier from proceeding with the Agreement as changed or amended.

#### **5. INSPECTION; RESPONSIBILITY FOR GOODS.**

Supplier's facilities, equipment, and the goods and services purchased and to be purchased under this Agreement, are subject to Buyer's inspection and acceptance. Payment for the goods shipped and services performed shall not constitute acceptance. Goods and services will only be deemed accepted when they have actually been counted, inspected, and tested by Buyer and found by Buyer to be in conformance with this Agreement. Goods rejected and/or goods supplied in excess of those ordered or delivered in advance of the delivery schedule may, in addition to Buyer's other rights, be returned to Supplier at Supplier's expense, including all expenses of unpacking, examining, repacking and reshipping. If Buyer receives goods or services with defects or nonconformities, whether or not apparent on inspection, Buyer reserves the right to require, at its option, re-performance or a refund or replacement, as well as transportation costs and payment of damages. Nothing contained in this Agreement will relieve Supplier from its obligations of testing, inspection, and quality control.

Irrespective of any prior inspections or the point of delivery pursuant to the applicable Incoterm, Supplier shall bear all risks of loss, damage, or destruction for nonconforming goods. Supplier shall also bear the same risks with respect to goods rejected by Buyer. Buyer shall be responsible for loss to the extent attributable to the gross negligence of its employees.

#### **6. SERVICES.**

(a) The description of work, including any deliverables, as delineated in the Agreement, describes the services that Supplier will perform and the fees which Buyer will pay in return. No work is to be performed hereunder until Supplier receives a purchase order from Buyer. Supplier will begin work on the date referenced in the Agreement and, unless terminated sooner, the Agreement will end when the services are completed.

(b) Buyer will notify Supplier in writing within thirty (30) days of receiving a deliverable whether it accepts or rejects that deliverable. Buyer may reject any deliverable which does not comply with the description of work and/or with Buyer's standards. If Buyer fails to notify Supplier within the specified time, Buyer will be deemed to have accepted the deliverable. If Buyer rejects it, Buyer may either terminate the Agreement pursuant to Section 17 or allow Supplier an opportunity to revise the deliverable to render it acceptable to Buyer.

(c) At least once a month, Supplier will report to Buyer on the status of the work, including any deliverables. On reasonable notice, Buyer may inspect Supplier's work in progress and receive copies of it.

(d) To the extent Supplier, in performing this Agreement, produces new work product, including without limitation designs, documentation, software, customer lists, inventions, creations, works, devices, masks, models, work-in-process, and deliverables ("Work Product"), all such Work Product shall be the property of Buyer. Supplier agrees to assign and hereby expressly assigns to Buyer all rights, title, and interest in and to the Work Product and related intellectual property rights, including but not limited to any and all moral rights Supplier may have in any software which is a part of the Work Product. Supplier also hereby forever waives and agrees never to assert any and all moral rights Supplier may have in any Work Product, even after termination of Supplier's work for Buyer. During and after this Agreement, Supplier will assist Buyer in every way, at Buyer's expense, to secure, maintain and defend for Buyer's benefit all copyrights, patent rights, mask work rights, trade secret rights and other proprietary rights in and to the Work Product.

(e) Buyer acknowledges that from time to time Supplier may have pre-existing intellectual property rights which Supplier wishes to incorporate into the Work Product under this Agreement or which may be necessary for the utilization by Buyer of such Work Product ("Supplier's Related Rights"). Unless otherwise agreed in advance, Supplier hereby grants Buyer, and its Affiliates, a perpetual, royalty free, irrevocable, worldwide, non-exclusive, transferrable license to use, disclose, reproduce, modify, license and distribute Supplier's Related Rights. Supplier's Related Rights, if applicable, will be specifically outlined in this Agreement.

#### **7. PRICING AND TAXES.**

(a) The goods shipped or services performed against this Agreement must not be invoiced at a higher price than shown on the face of this Agreement without the prior written consent of Buyer. The invoice must itemize transportation charges, including foreign inland freight and insurance and taxes separately, if

applicable. No charge will be allowed for packing, labeling, commissions, customs duties, storage, crating, express handling or travel, unless indicated in this Agreement.

(b) All fees and amounts payable by Buyer to Supplier are exclusive of any value added tax, goods and service tax, sales tax, use tax, consumption tax or any other similar tax only (collectively referred to as "VAT"). If the transactions as described in this Agreement are subject to any applicable VAT, Supplier shall provide Buyer with an invoice which specifically states this VAT and which also complies with the applicable tax regulations ("valid invoice"). Provided Supplier has stated VAT (as identified above) on a valid invoice Buyer will pay to Supplier the VAT properly chargeable in respect of that payment. Supplier will not invoice or otherwise attempt to collect from Buyer any taxes with respect to which Buyer has provided Supplier with (i) a valid resale or exemption certificate, (ii) evidence of direct payment authority, or (iii) other evidence, reasonably acceptable to Supplier, that such taxes do not apply. Buyer reserves the right to withhold payments to Supplier until Supplier has provided Buyer with a valid invoice. If Supplier has incorrectly determined the amount of VAT chargeable to Buyer, then the invoice shall be corrected and:

- when Buyer has overpaid any amount of VAT, Supplier will repay this amount of VAT plus interest to Buyer; or

- when Buyer has paid less than the correct amount of VAT, Buyer shall pay the outstanding amount of VAT to Supplier upon receipt of a valid invoice. Buyer reserves the right to claim compensation for damages in case a VAT deduction is denied or VAT refund is rejected due to Supplier's failure to issue a valid invoice.

(c) In the event that any applicable law requires Buyer to withhold taxes or similar deductions (including interest, penalties, and additions thereto) imposed on payments made or to be made by Buyer to Supplier, Buyer may deduct such taxes from such payments provided that such taxes are paid to the appropriate tax authorities. In such event Buyer shall furnish Supplier with tax receipts issued by the appropriate tax authorities to enable Supplier to support (if applicable) a claim for credit against income taxes as well as to enable Supplier to document (if necessary) Supplier's compliance with tax obligations in any jurisdiction outside Supplier's home country.

(d) Supplier warrants that the prices for goods and services will not be less favorable than prices applicable to sales or services by Supplier to any other customer purchasing like quantities of substantially comparable products or substantially comparable services.

## **8. INVOICES.**

Invoices shall be submitted electronically and shall contain the following information: purchase order number, item number, description of items, sizes, quantities, unit prices, Supplier's VAT code, information legally required in Buyer's country and extended totals in addition to any other information specified elsewhere herein. Payment of invoice shall not constitute acceptance of goods or services and shall be subject to adjustment for errors, shortage, defects in goods or other failure of Supplier to meet the requirements of the Agreement. Buyer shall pay such invoice within (a) the time period specified in the applicable purchase order or (b) if no time period is specified on the purchase order, then the lesser of seventy-five (75) days from the end of month of the invoice date or the maximum payment period permitted by law.

## **9. SETOFFS.**

Buyer shall have the right to apply any amount which Supplier or its Affiliates may owe to Buyer or its Affiliates under this Agreement or any other agreement against open invoices as directed solely by Buyer, until the full amount has been credited to Buyer.

## **10. NO OPEN SOURCE SOFTWARE.**

Supplier represents and warrants that, unless otherwise agreed in writing by Buyer, to the best of its knowledge after proper due diligence and inquiry, its software product and/or software/hardware product to be provided to Buyer for use or distribution by Buyer (including in Buyer's product packages or through a download from Buyer's website, or otherwise) does not include any portion of any Open Source Software (as defined below). **SUPPLIER AGREES THAT IT WILL DEFEND, INDEMNIFY AND HOLD HARMLESS BUYER, ITS AFFILIATES AND ITS AND ITS AFFILIATES' OFFICERS, DIRECTORS, AGENTS, REPRESENTATIVES, EMPLOYEES, AND CUSTOMERS AGAINST ANY AND ALL CLAIMS, LAWSUITS, LIABILITIES, JUDGMENTS, DAMAGES, AND EXPENSES (INCLUDING ATTORNEYS' FEES ACTUALLY INCURRED) ARISING FROM A BREACH BY SUPPLIER OF ANY OF ITS OBLIGATIONS OR REPRESENTATIONS HEREUNDER, INCLUDING, WITHOUT LIMITATION, ANY THIRD-PARTY CLAIMS IN CONNECTION WITH ANY SUCH BREACH.**

For the purpose of this representation and warranty, the term Open Source Software means any software licensed under the terms that may create an obligation (a) to disclose or distribute source code; or (b) to grant a license for the purpose of making derivative works; or (c) to grant a right, license, covenant, or immunity in connection with intellectual property rights. By means of example and without limitation Open

Source Software is software licensed under GNU General Public License (“GPL”), Affero General Public License (“AGPL”), Lesser General Public License (“LGPL”), Common Public License, the Artistic License, and Mozilla Public License.

#### **11. THIRD-PARTY INTELLECTUAL PROPERTY.**

Supplier represents and warrants that all goods and services supplied under this Agreement do not and shall not infringe any third-party patent, copyright, trade secret, mask work right, trade name, trademark or service mark, or other proprietary right. **SUPPLIER AGREES THAT IT WILL DEFEND, INDEMNIFY AND HOLD HARMLESS BUYER, ITS AFFILIATES AND ITS AND ITS AFFILIATES’ OFFICERS, DIRECTORS, AGENTS, REPRESENTATIVES, EMPLOYEES, AND CUSTOMERS AGAINST ANY AND ALL CLAIMS, LAWSUITS, LIABILITIES, JUDGMENTS, DAMAGES, AND EXPENSES (INCLUDING ATTORNEYS’ FEES ACTUALLY INCURRED) RELATED TO CLAIMED INFRINGEMENT OF THIRD-PARTY PATENTS, COPYRIGHTS, TRADE SECRETS, TRADE NAMES, MASK WORK RIGHTS, TRADEMARKS, SERVICE MARKS, OR OTHER PROPRIETARY RIGHTS IN CONNECTION WITH GOODS OR SERVICES SUPPLIED, INCLUDING BUT NOT LIMITED TO SUPPLIER’S RELATED RIGHTS AND SUPPLIER’S WORK PRODUCT.**

#### **12. WARRANTIES.**

Supplier warrants to Buyer, its successors and assigns, that all goods will (i) be free from defects in design material, and workmanship, (ii) will conform with all written proposals and descriptions as well as any drawings, specifications, samples, or models furnished by Buyer or furnished by Supplier and approved by Buyer, (iii) be merchantable, (iv) be fit for their intended purpose, and (v) be new, not refurbished or reconditioned. Supplier further warrants and guarantees to Buyer, its successors, assigns, that Supplier will, at the time of delivery, convey to Buyer good title for all goods covered by the Agreement, free and clear of all liens, claims or other encumbrances. In addition, Supplier warrants that all services shall be rendered in a good and workmanlike manner by appropriately qualified and skilled personnel.

The foregoing warranties are in addition to, and not in lieu of any other warranties, implied or express. If any goods or services are reasonably determined by Buyer to fail to conform to the warranties set forth in this Agreement, Buyer may immediately terminate this Agreement and Supplier will reimburse Buyer for all losses, costs and damages caused by such nonconforming goods or services. Such costs and damages may include, but are not limited to, costs, expenses and losses of Buyer and/or its customers arising from: (a) inspection, sorting, repair or replacement of any nonconforming goods or any system or component that incorporates such nonconforming goods, (b) production interruptions or slowdowns, (c) removal of component systems from the manufacturing or assembly process, (d) payments made to Buyer’s customers under any applicable warranty programs or policies, and (e) Buyer’s cost of cover to procure replacement goods or services from another supplier. Breach of the foregoing warranties will entitle Buyer to all available remedies.

#### **13. EPIDEMIC DEFECT.**

Supplier warrants that the goods will be free from epidemic defects. An “epidemic defect” is a defect which appears in more than half a percent (0.5%), or any lower percentage as specified in the specifications, of the goods of the same or substantially the same type delivered by Supplier to Buyer or its Affiliates within the epidemic defect period as stated in the relevant specifications, or if no such period is stated, within any consecutive period of three (3) months, and which defect is either similar or substantially similar or has similar or substantially similar cause. In the event of an epidemic defect, Supplier shall urgently and at its costs and expense repair or replace goods delivered to Buyer which show such epidemic defect within the reasonably expected life time of such goods and Supplier shall further indemnify Buyer for all losses and damages incurred by Buyer, including without limitation all costs and damages in relation to recall of any goods or products in which the goods are used from the market (whether defective or not) in relation to the epidemic defect.

#### **14. INDEMNITY.**

**SUPPLIER SHALL INDEMNIFY AND HOLD HARMLESS BUYER, ITS AFFILIATES, ITS AND ITS AFFILIATES’ OFFICERS, DIRECTORS, AGENTS, REPRESENTATIVES AND EMPLOYEES FROM ANY AND ALL CLAIMS, LAWSUITS, LIABILITIES, JUDGMENTS, DAMAGES, AND EXPENSES (INCLUDING ATTORNEYS’ FEES ACTUALLY INCURRED) INCLUDING ON ACCOUNT OF DEATH OR INJURY TO ANY PERSON OR DAMAGE TO ANY PROPERTY ARISING FROM OR IN CONNECTION WITH ANY GOODS AND/OR SERVICES SUPPLIED, EXCEPT TO THE EXTENT CAUSED BY BUYER’S SOLE NEGLIGENCE. THIS INDEMNITY SHALL APPLY WITHOUT REGARD TO WHETHER THE CLAIM, DAMAGE, LIABILITY OR EXPENSE IS BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHER TORT. THIS INDEMNITY SHALL SURVIVE DELIVERY AND ACCEPTANCE OF GOODS AND/OR SERVICES.**

**15. DAMAGES.**

**TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, a) IN NO EVENT SHALL SUPPLIER BE ENTITLED TO INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, USE, REVENUE, GOODWILL, OR PRODUCTION DOWNTIME, EVEN IF SUPPLIER IS ADVISED OF THE SAME; AND b) BUYER'S TOTAL LIABILITY FOR DAMAGES UNDER THIS AGREEMENT WILL NOT EXCEED THE PRICE ALLOCABLE TO THE GOODS OR SERVICES GIVING RISE TO THE CLAIM.**

**16. CONFIDENTIALITY.**

(a) "Buyer Confidential Information" means information relating to the research, development, products, methods of manufacture, technology, trade secrets, business plans, customers, finances, and personal data related to the business or affairs of Buyer. The terms and existence of this Agreement and everything supplied in connection with it by Buyer shall be deemed Buyer Confidential Information. Buyer Confidential Information does not include any information (i) which Supplier possessed or knew before Buyer disclosed it to Supplier without use or disclosure restrictions; (ii) which has become publicly known through no wrongful act or omission of Supplier; or (iii) which Supplier developed independently, as evidenced by appropriate documentation without use or reference to any Buyer Confidential Information; (iv) is explicitly approved for release by written authorization of Buyer; and (v) is lawfully furnished to Supplier by a third party, after the time of receipt from Buyer, without use or disclosure restrictions.

(b) Supplier agrees not to disclose any Buyer Confidential Information and to take all reasonable precautions to prevent its unauthorized dissemination, both during the performance and after the completion or termination of the Agreement. Without limiting the scope of this duty, Supplier agrees to limit its internal distribution of Buyer Confidential Information to its employees and agents who have a need-to-know and to take steps to ensure that the dissemination is so limited. Supplier agrees not to use any Buyer Confidential Information for its own benefit or for the benefit of anyone other than Buyer. Supplier agrees not to reverse engineer, decompile or disassemble Buyer Confidential Information or derive or attempt to derive the source code, algorithmic nature or structure of any object code portions of Buyer Confidential Information except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation. Without limiting the scope of this duty, Supplier agrees not to design or manufacture any products which incorporate Buyer Confidential Information. A disclosure by Supplier pursuant to the order or requirement of a court, administrative agency or other governmental body shall not be considered a breach of this provision, provided that Supplier promptly after learning of such order or requirement shall (unless prohibited by law) notifies Buyer thereof to give Buyer the opportunity to contest disclosure or to seek any available legal remedies.

(c) All Buyer Confidential Information and all copies thereof, remains the property of Buyer and no license or other rights in the Buyer Confidential Information is granted or conferred hereby, expressed or implied.

**(d) ALL BUYER CONFIDENTIAL INFORMATION IS PROVIDED "AS IS" AND WITHOUT ANY WARRANTY, EXPRESS, IMPLIED, OR OTHERWISE, REGARDING ACCURACY OR PERFORMANCE.** Further, upon completion or termination of the Agreement, Supplier agrees to (at Buyer's sole option) destroy or return to Buyer, all Buyer Confidential Information, including but not limited to all computer programs, documentation, notes, plans, drawings and copies thereof and to provide certification of such destruction within thirty (30) days after termination or expiration of the Agreement.

**17. SECURITY INCIDENT.**

In the event of any actual or suspected unauthorized and/or unlawful access, use, disclosure, destruction, or loss of Buyer data and/or Buyer Confidential Information (a "**Security Incident**"), Supplier shall, within seventy-two (72) hours after Supplier becomes aware of the Security Incident, inform Buyer in writing and in reasonable detail of the following: (a) the scope of the Security Incident and its likely impact on Buyer; (b) the corrective actions taken or to be taken by Supplier to remedy the Security Incident; and (c) all other information reasonably necessary to allow Buyer to meet any obligations to report or inform impacted individuals of such Security Incident under all applicable data privacy and security laws. Further, Supplier shall cooperate with Buyer to take reasonable commercial steps, as directed by Buyer, to assist in any investigation, mitigation, and remediation for any Security Incident.

**18. TERMINATION.**

Buyer may terminate this Agreement for convenience in whole or in part, at any time, by verbal and/or written notice.

Buyer shall be entitled to suspend its obligations, rescind or terminate the Agreement, in whole or in part, without further notice being required, without prejudice to any other rights or remedies available to Buyer under the Agreement or at law, if:

- (a) Supplier fails to comply with any obligation of the Agreement;
- (b) insolvency or bankruptcy proceedings are instituted against Supplier (including voluntary insolvency or bankruptcy proceedings); (c) Supplier is liquidated or dissolved;
- (d) any attachment is made over the assets of Supplier or on its behalf;
- (e) Supplier makes an unauthorized assignment for the benefit of creditors; or
- (f) any other person or entity than the person or entity having control over Supplier at the date of the Agreement acquires control over Supplier.

The representations, warranties, indemnities and other obligations which by their nature or context are intended to survive payment and/or termination of this Agreement will survive, including but not limited to the obligations in Sections 2(b), 6(d), 6(e), 9-18, 26, 28, 31 and 32 of this Agreement.

#### **19. RIGHT TO AUDIT.**

Supplier and its subcontractors shall keep accurate records and books of accounting showing all charges and related expenses incurred in provision of goods and the performance of services hereunder. Said records shall be maintained in conformance with generally accepted accounting principles and procedures. Buyer shall have the right to inspect such records and perform audits for three (3) years from the date of this Agreement, on Supplier's or subcontractor's premises during business hours, or assign said audits to outside parties. Supplier agrees to fully reimburse any recoveries plus reasonable audit costs in the event of financial discoveries resulting from an audit. Buyer shall maintain the right to extend payment terms until such time as corrections have been made. The terms of this Section shall appear in all of Supplier's subcontracts.

#### **20. INSURANCE.**

- (a) Supplier will maintain the following forms of insurance with insurers acceptable to Buyer, having a minimum A.M. Best rating of A-,VII:
  - (i) worker's compensation insurance, covering occupational disease within statutory limits, and employer's liability insurance with limits of not less than US\$1,000,000;
  - (ii) comprehensive general liability insurance, under the Insurance Services Office (ISO) Commercial General Liability occurrence form, including coverage for premises and operations, contractual liability, broad form property damage, and products and completed operations with limits of liability of no less than US\$1,000,000 each occurrence, US\$2,000,000 general aggregate, and US\$2,000,000 products/completed operations aggregate and contractual liability coverage for the indemnity obligations of this Agreement;
  - (iii) if Supplier is providing professional services under this Agreement, Supplier will maintain Professional Liability Insurance covering liability arising out of negligent acts, errors, or omissions, including, but not limited to, copyright and trademark infringement, with policy limits of not less than US\$2,000,000 each occurrence and US\$2,000,000 aggregate, whether this coverage is on a separate policy or is endorsed on to the vendor's general liability policy; and
  - (iv) if a licensed vehicle will be used in connection with the performance of this Agreement, Supplier will maintain automobile liability insurance covering all owned, hired, rented, and non-owned vehicles with minimum limits of liability as follows: bodily injury and property damage combined single limit of not less than US\$1,000,000 per occurrence, or if limits are obtained on a per person and per accident basis, then not less than US\$1,000,000 per person and per accident for bodily injury, and US\$1,000,000 per accident for property damage.

The use of umbrella or excess liability insurance to achieve the above required liability limits will be acceptable, provided that such umbrella or excess liability insurance coverage meets the individual policy requirements identified above.

(b) Supplier will provide a waiver of subrogation against Buyer regarding the insurance specified in Section 19(a)(i) above, and will name Buyer and its officers, directors, employees, and Affiliates, as additional insureds under all other specified insurance.

(c) Supplier's insurance will be designated as primary. Any deductibles or self-insured retentions are the sole responsibility of Supplier and do not reduce or replace the obligations or indemnity requirements provided in this Agreement.

(d) Supplier will not accept a purchase order or perform any services until such time as it may have in force insurance in the forms and of the types specified in this Section. Promptly upon commencement of this Agreement, and upon Buyer's reasonable request thereafter, Supplier will provide appropriate certificates or other evidence of the above insurance coverages to Buyer.

(e) Supplier will provide Buyer with at least thirty (30) days of advance written notice of the expiration, cancellation, material adverse alteration, or termination of any insurance policy providing any of the above coverages.

(f) The procurement and maintenance of insurance specified in this Section will not limit or affect any liability which Supplier might have by virtue of this Agreement or otherwise.

#### **21. TOOLING AND DOCUMENTS.**

All specifications, drawings or other documents and data furnished by Buyer and all tools, dies, molds, jigs, fixtures, patterns, machinery, special test equipment, special taps and gauges which have been furnished, paid for, or charged against Buyer, or which have their cost amortized shall be deemed Buyer's property, treated as Buyer Confidential Information.

#### **22. SAFETY DATA SHEETS.**

Supplier will electronically provide a Safety Data Sheet for those chemicals purchased under this Agreement which are regulated by regulations within the countries these chemicals are supplied to. Supplier certifies, by acceptance of this Agreement, that the chemicals purchased are legally allowable to be used within the country, or are subject to an exemption and that the exemption is specified in the Safety Data Sheet.

#### **23. OZONE DEPLETING SUBSTANCES.**

Supplier certifies, by acceptance of this Agreement, that the goods will not be manufactured with any ozone-depleting substances in Supplier's manufacturing processes and the goods do not contain these substances. The specific types of ozone-depleting substances are those substances controlled by the Montreal Protocol including the substances in Annex A, B and E and Annex C group II and III of the Montreal Protocol, and substances from Annex C group I of the Montreal Protocol when use is prohibited or restricted according to national or regional regulations.

#### **24. GIFTS.**

Supplier shall not offer, promise or agree to give any financial or other advantage (including, but not limited to, any money, gifts or gratuities of any kind) to Buyer's employees, agents or members of their families or to any third party (including, but not limited to, any official or employee of any government, governmental or regulatory agency or other public body) to secure or influence any business transaction in relation to this agreement. Violations shall be a material breach of this Agreement.

#### **25. ADVERTISING / PUBLICITY RELEASES.**

Supplier shall not in any manner, advertise, publish or release any information concerning this Agreement, or any portion thereof, without the prior written consent of Buyer. Supplier shall not use Buyer's name in any way, including without limitation, a general or sample listing of Supplier's customers, without Buyer's prior written consent. This Agreement does not grant or confer any right to use any trademark, trade name, logo, service mark or other mark of Buyer or its Affiliates, in any advertising, publications, promotional activities, or for any other purpose. Any violation of this Section shall be deemed a material breach of this Agreement.

#### **26. ASSIGNMENT; SUBCONTRACTS; AND AFFILIATES.**

Supplier shall not assign, transfer, subcontract or delegate this Agreement or any right or obligation hereunder, or any part thereof, including the accounts receivables without the written consent of Buyer. Any assignment without Buyer's written consent shall be void and have no binding effect upon Buyer.

No subcontract entered into by Supplier shall relieve Supplier of any of its liabilities and/or obligations. Purchases of parts and materials to comply with this Agreement shall not be construed as assignments or subcontracts. Buyer may assign the Agreement, in whole or in part, or any of its rights, interests, duties or obligations, (i) to an Affiliate or (ii) in connection with a corporate reorganization, acquisition, merger, or sale of all or substantially all of the assets of a division or business unit.

The term "Affiliate" shall mean, with respect to a party, any corporation or other legal entity that now or hereafter Controls, is Controlled by or is under common Control with such party; where "Control" means the direct or indirect ownership of greater than fifty percent (50%) of the shares or similar interests entitled to

vote for the election of directors or other persons performing similar functions. An entity is considered an Affiliate only so long as such Control exists.

**27. APPLICABLE LAW.**

The Agreement shall be governed by and construed in accordance with the laws set forth in the table below as applicable, except for their conflict of laws provisions, based on the identity of Buyer. Any rights, remedies and warranties available to Buyer by operation of law may only be waived or modified in writing by Buyer in a supplement or an amendment to this Agreement. **Buyer**  
Zero-Error Systems (ZES) Pte Ltd  
Zero-Error Systems America LLC

**Applicable Law**

Singapore  
United States of America