

Terms and Conditions of Product Sales

These terms and conditions ("Terms") are those upon which Zcomax Technologies, Inc. ("Zcomax") makes all sales. Unless Buyer and Zcomax have executed a master contract which explicitly supersedes and replaces these Terms, acceptance of a purchase order is expressly made conditional upon Buyer's agreement, expressed or implied, to these Terms without exception, modification or addition.

1. ACCEPTANCE

Buyer's agreement to these Terms shall be indicated by any of the following, whichever first occurs: (a) Buyer's making of an offer to purchase Products from Zcomax; (b) Buyer's acknowledgment hereof; (c) Buyer's acceptance of any shipment of any part of the items specified for delivery; (d) Buyer's application for credit; or (e) any other act or expression of acceptance by Buyer. Zcomax's acceptance of a purchase order is expressly limited to these Terms without addition, modification or exception, and any term, condition or proposals hereafter submitted by Buyer (whether oral or in writing) which is inconsistent with or in addition to these Terms is hereby rejected by Zcomax. Zcomax's silence or failure to respond to any such subsequent term, condition or proposal shall not be deemed to be Zcomax's acceptance or approval thereof.

2. DELIVERY

Delivery shall be made in accordance with ZCOMAX's shipping policy in effect on the date of shipment. All deliveries of Products shall be FOB Shipping Point (as designated in the invoice) and the entire risk of loss and damage to the Products shall pass to Buyer at the Shipping Point (regardless of whether or when title passes or not to Buyer). Buyer shall be responsible for arranging all transportation and insurance of Products from the Shipping Point. However, upon request by Buyer, Zcomax will arrange for, on behalf of Buyer: (i) transportation agreeable to both parties to Buyer's designated destination; and/or (ii) all risks insurance coverage, subject to the conditions and exclusions of the policy, against physical loss or damage during transit, all from time of departure from the Shipping Point until arrival at Buyer's designated destination, and in each case shall invoice Buyer accordingly. Zcomax assumes no responsibility for charges attendant to Customs clearance in the country of delivery, customs duty, VAT or any other charges or taxes within the country designated for delivery by the Buyer. Delivery is subject to the payment provisions herein and to Zcomax's receipt from Buyer of all necessary information and documentation from Buyer (including all import certificates, exemption and/or resale certificates, licenses and other documents as may be

required from Buyer for export of the Product). Buyer shall promptly notify Zcomax, within five (5) business days after delivery, of any claimed shortages or rejection as to any delivery. Such notice shall be in writing and shall be reasonably detailed, stating the grounds for any such rejection. Failure to give any such timely notice shall be deemed an acceptance in full of any such delivery. Zcomax shall not be liable for any shipment delays beyond its reasonable control, including, but not limited to, delays caused by unavailability or shortages of components from Zcomax's suppliers; natural disasters, acts of war; acts or omissions of Buyer; fire, strike, riot, or governmental interference; unavailability or shortage of materials, labor, fuel or power through normal commercial channels at customary and reasonable rates; failure or destruction of plant or equipment arising from any cause whatsoever; or transport failures.

3. PRICE AND PAYMENT

Buyer shall bear all applicable federal, state, municipal and other government taxes (such as sales, use and similar taxes), as well as import or customs duties, license fees and similar charges, however designated or levied on the sale of the Products (or the delivery thereof) or measured by the purchase price paid for the Products. (Zcomax's prices set forth on the invoice do not include such taxes, fees and charges.) Unless otherwise specified, payment terms are COD cashier's check or TT in advance. Net Terms will be honored based on your credit and trade references for USA-based Buyer. Credit card payment is also available for North America Buyer.

4. PRODUCT RETURNS

Return of Products purchased hereunder, whether for DOA or defective repair purposes, shall be governed by Zcomax's Product Return policies and procedure in accordance with the warranties set out herein, or as otherwise provided by Zcomax to Buyer in writing. If Zcomax issues a return authorization to Buyer allowing Buyer to return Product to Zcomax, Buyer will deliver, transport or postage prepaid, the Product to Zcomax's address in the United States.

5. LIMITATION OF LIABILITY

Zcomax shall not be liable under any circumstances for any special, consequential, incidental, PUNITIVE or exemplary damages arising out of or in any way connected with the sales agreement to sell Product to Buyer or the Product, including, but not limited to, damages, lost profits, loss of use, lost data or for any damages or sums paid by Buyer to third parties, even if Zcomax has been advised of possibility of such damages. The foregoing limitation of liability shall apply whether any claim is based upon

principles of contract, warranty, condition, negligence or other tort, breach of any statutory duty or breach of any intellectual property right, breach of any statutory or implied warranty or condition, or any principles of indemnity or contribution. Products are not authorized for use as critical components in: 1) life support devices or systems, or 2) devices or systems operating in hazardous environments. Any unauthorized use immediately terminates the software license (see Section 8), immediately voids any warranty (whether implied by statute, conduct, common law or otherwise), and Buyer immediately assumes all risk and legal responsibility for the use of the Products and any damages (direct, consequential or otherwise) caused by such unauthorized use.

6. ALL SALES TRANSACTIONS

All unpaid balances past due date are subject to 1.5% monthly interest charge. In the event of a shortage, Buyer must notify Zcomax within five (5) business days of delivery of Products. All credit returns are refused and invalid without a Zcomax Credit Return Authorization, which must be requested within five (5) business days after delivery of the Product (in whole or partial delivery, whichever comes first) and which may be issued by Zcomax in its sole and final discretion. All returned Products are subject to a 15% restocking fee. No refunds on shipping charges. All chargebacks are Buyer's responsibility. Title to Products remains with Zcomax until account therefor is paid in full. Late accounts (i.e. past ninety (90) days) are subject to reporting to credit agencies and referral to collections and any costs including but not limited to attorney fee, collection agency costs, court fees, etc., will be the Buyer's responsibility. All returned checks are subject to an additional \$50 service charge.

7. WARRANTIES

ZCOMAX MAKES NO OTHER WARRANTIES, CONDITIONS OR REPRESENTATIONS OF ANY KIND WHATSOEVER, EXPRESSED OR IMPLIED, EXCEPT THAT OF CLEAR TITLE TO THE PRODUCTS, AND ALL IMPLIED WARRANTIES, CONDITIONS AND REPRESENTATIONS (INCLUDING THOSE OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE NOT EXPRESSED IN WRITING), ARE HEREBY DISCLAIMED.

8. SOFTWARE

Title to any software portion of the Products always remains in Zcomax or its third party licensors as applicable. Zcomax grants a limited, non-exclusive license to Buyer to use such copy of software on the unit of Product where it resides when delivered, for use, and only for use, in ordinary commercial applications and for purposes that do not risk bodily

injury or hazardous situations, and always in strict accordance with third party license conditions, if any, and Buyer hereby obliges itself not to export, import or transmit the software to any country in contravention of the laws of that country or the laws of the United States or Canada; and Zcomax reserves all other rights. This license, on a unit by unit basis for the Products, automatically terminates (without notice from Zcomax) upon the earliest of: when Buyer fails to timely pay fully (including interest charges) for the unit; when Buyer is the subject of bankruptcy or comparable proceedings; when Buyer destroys the delivered unit copy of software; and when Buyer breaches any of its obligations. Except for licenses otherwise expressly granted to Buyer, the sale of Products hereunder does not convey to Buyer any proprietary rights in the intellectual property embodied or instantiated by the Products, and Buyer acknowledges Zcomax's rights thereto. Neither the sale of Products nor any written provision will be construed to grant to Buyer, either expressly, by implication or by way of estoppel, any license under any other proprietary rights of Zcomax covering or relating to any other product or invention of Zcomax, or any combination of the Product with any other product of Zcomax.

9. NO WAIVER

No failure by Zcomax to enforce or take advantage of any provision hereof shall constitute a waiver of the right subsequently to enforce or take advantage of such provision or any other provision hereof.

10. GOVERNING LAW

The laws of the State of California, United States of America, shall govern in all respects as to the validity, interpretation, construction and enforcement of these Terms and of the associated sales agreement, without reference to its conflict of laws principles and rules. The parties exclude the application of the United Nations Convention on Contracts for the International Sale of Goods if otherwise applicable.