

ZERO Manufacturing, Inc. — STANDARD TERMS AND CONDITIONS OF SALE

1. **TERMINATION.** In the event that Buyer terminates all or any portion of its order, Seller shall have the right to charge Buyer for: (a) all costs already incurred by Seller, (b) the price or cancellation charge assessed by Seller's vendor of any materials, parts, or services required to fill the order, and (c) a reasonable allowance for overhead and profit.

2. **WARRANTIES.** Seller warrants to Buyer that goods manufactured by Seller will conform to any applicable drawings and specifications accepted in writing by Seller, will be free from defects in material and workmanship for a period of 12 months from the date of shipment, and will be manufactured in accordance with all Utah EPA, AQMD, and other applicable regional and local laws and regulations governing Seller's substances or compounds. Component parts and accessories not manufactured by Seller are warranted only to the extent warranted by the manufacturer(s) thereof. The foregoing warranties shall be applicable only if such goods are properly installed, stored, maintained and used in accordance with Seller's service maintenance manuals or other written instructions. These warranties shall not apply to any goods which have been repaired or altered outside of Seller's authorized procedures so as, in Seller's sole judgment, to affect their integrity. **SELLER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.** No oral agreement, guaranty, promise, condition, representation, or warranty shall be binding.

3. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL SELLER BE LIABLE TO BUYER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, ECONOMIC, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND (INCLUDING THOSE ARISING OUT OF A CAUSE OF ACTION BASED ON STRICT LIABILITY), AND IN NO EVENT SHALL SELLER BE LIABLE TO BUYER FOR ANY AMOUNT EXCEEDING THE PURCHASE PRICE OF THE GOODS SOLD HEREUNDER. Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the foregoing exclusion may not apply to Buyer.

4. **SHIPMENT.** Sales terms are FOB Seller's Plant. Seller will select the carrier unless Buyer designates an acceptable specific carrier on its purchase order. If Buyer designates a specific carrier on its purchase order but Seller's standard packaging will not satisfy the requirements of such carrier, Seller shall have the authority to select a qualified alternate carrier without obtaining Buyer's prior approval. Seller reserves the right to arrange shipment in lots. Upon shipment of each lot, Seller shall have the right to immediately invoice Buyer for the goods shipped and other proportionate costs of the order. Stated shipment dates are estimates based on manufacturing load at time of quote and are subject to change when an order is accepted by Seller, and again when Seller receives all information necessary to permit Seller to proceed with work immediately and without interruption. Seller will use reasonable commercial efforts to accommodate Buyer's requested shipment dates. Seller may arrange shipment of the goods in advance of Buyer's requested shipment date, unless a "not before" date is expressly stipulated by Buyer and acknowledged by Seller. If the goods are held by Seller beyond Seller's scheduled shipment date for the convenience of Buyer or due to any event of Force Majeure, Seller reserves the right to immediately invoice Buyer for the goods, place the goods in storage on Buyer's behalf (at which time Seller's delivery obligations will be deemed fulfilled and title and all risk of loss or damage will pass to Buyer), and invoice Buyer for all additional expenses incurred by Seller as a result thereof. **IN NO EVENT SHALL SELLER BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, ECONOMIC, PUNITIVE, OR EXEMPLARY DAMAGES RESULTING FROM DELAYED SHIPMENTS.**

5. **PRICES.** The sales prices for goods are based on FOB Seller's Plant terms, and include the costs of Seller's usual factory test and inspections as well as the cost of Seller's standard commercial packaging. Buyer shall pay all shipping costs directly or as a separate line on Seller's invoice. Additional or alternative testing, inspections, or packaging requested by Buyer shall be subject to Seller's specific written agreement and at an additional cost to Buyer as a separate line on Seller's invoice. Goods may be made from a deep-drawn manufacturing method resulting in draw marks on the finished product. Seller will not be responsible for any special finishing required (such as anodizing, chemical film, paint or other types of processes) except upon Seller's specific written agreement to such request by Buyer, and at an additional cost to Buyer as a separate line on Seller's invoice. Prices of goods scheduled for shipment more than 12 months after the date of Buyer's order shall be subject to increase in Seller's sole discretion.

6. **DOMESTIC TAXES.** Seller's prices do not include any applicable sales, use, excise or similar taxes. If Seller is obligated to pay or collect any such U.S. federal, state, or local tax on the sale or shipment of the goods to Buyer, Buyer agrees to pay such tax as a separate line on Seller's invoice. If Buyer is exempt from any such tax but fails to timely provide Seller with written notice containing all necessary exemption information, and Seller pays or collects such tax, Buyer remains obligated to pay such tax as a separate line on Seller's invoice. Under the laws of the State of Utah, Seller may be required to collect sales tax even if Buyer holds a valid Utah Sales Tax Permit. Under the laws of the State of Utah, Seller is required to collect use tax on tooling which is produced and used in Seller's facility to produce merchandise for resale. Buyer is required to pay this use tax even if: (1) Buyer holds a valid Utah Sales Tax Permit; and (2) Buyer is located outside the State of Utah and holds a valid resale permit for that state. If title to the tooling vests with the United States Government and is so designated on Buyer's purchase order and specifically agreed by Seller in writing, Buyer may then be exempt from this use tax.

7. **TERMS OF PAYMENT.** If credit terms have been extended to Buyer, then all invoices issued by Seller are due and payable by Buyer in full net 30 days from the date of invoice, unless otherwise specifically agreed to in writing by Seller. Buyer shall notify Seller within 30 days of the date of any disputed invoice, but shall timely pay all other amounts not in dispute on such invoice and all other invoices. Buyer expressly waives any right to assert an offset or counterclaim with respect to amounts due under any invoice issued by Seller. All past due, unpaid balances will bear a service charge at the rate of 1½% per month from the date of invoice until paid in full. If Seller determines that Buyer has failed to provide adequate assurance or security for credit to be extended by Seller or has taken or omitted any other action that adversely impacts the conditions on which credit was extended by Seller, Seller may in its sole discretion modify or suspend the terms of credit, demand payment on or before shipment, make all amounts owing to Seller immediately due and payable, and/or withhold shipments and suspend or terminate further performance. In the event of non-payment by Buyer, Seller will be entitled to an extension of time to perform its obligations equal to the period of Buyer's delinquent payments, whether or not Seller elects to suspend performance or to exercise any other remedy. If Seller so elects to suspend or terminate its performance, Buyer agrees to pay any costs incurred by Seller upon invoice.

8. **RISK OF LOSS; GRANT OF SECURITY INTEREST.** Sales terms are F.O.B. Seller's Plant. Claims for loss, shrinkage, or damage (obvious or concealed) are Buyer's responsibility and should be made by Buyer to the carrier. Seller will render Buyer reasonable assistance to present such claims. To secure payment of the prices of goods and services sold, and other costs accruing hereunder, Buyer grants to Seller a continuing security interest in the Goods delivered to Buyer, products into which

the Goods are commingled, and the products and proceeds of the foregoing (the "Collateral"). Buyer shall protect, preserve, and maintain the Collateral. Buyer shall take all action that may be requested by Seller to maintain the validity, enforceability, perfection, and priority of Seller's security interest in the Collateral (including the execution and acknowledgement of financing statements).

9. **RETURNS.** Goods may be returned by Buyer for credit only with the prior approval of Seller in its sole discretion. Such approval may be conditioned upon Buyer paying freight costs, a restocking charge, and an allowance for Seller's overhead and profit. Goods returned without such approval, or with such approval but not delivered by Buyer to the place designated by Seller in a salable condition, will not be accepted by Seller and no credit will be issued to Buyer.

10. **FORCE MAJEURE.** Seller shall not be responsible for delay in manufacturing or shipment due to any causes beyond its control, including but not limited to acts of God or the public enemy, acts of the Government, fires, flood, epidemics, quarantine restrictions, strikes or lockouts, freight embargo, and unusually severe weather. Seller will notify Buyer of such causes within a reasonable time after Seller learns of said causes. The foregoing extension will apply even though such causes may occur after Seller's performance has been delayed for other causes. If delay resulting from any of the foregoing causes extends for more than sixty (60) days and the parties do not agree upon a revised basis for completing performance following the end of the delay, then Seller may, upon reasonable notice to Buyer, terminate the order with respect to the unexecuted portion of the work whereupon Buyer will pay Seller reasonable termination charges as invoiced by Seller.

11. **BUYER'S DRAWINGS OR DESIGNS; INDEMNIFICATION.** Buyer shall indemnify, defend, and hold Seller harmless from and against any claim, charge, suit or proceeding which may be brought against Seller or its agents or vendors for alleged intellectual property infringement or unfair competition resulting from similarity in design, trademark, or appearance of goods by reason of Seller's manufacture or sale of any goods based upon Buyer's specifications, drawings or designs in the fulfillment of an order for Buyer. Buyer further agrees to indemnify, defend, and hold Seller harmless from and against any and all liability, damages, losses, royalties, lost profits and expenses (including court costs and attorney's fees) resulting from the bringing or defense of such suit or proceedings including any settlement or decree of judgment entered therein. Seller in its sole discretion may be represented by and actively participate through its own counsel in any such suit or proceeding.

12. **INDEMNIFICATION.** Buyer will indemnify and hold Seller harmless from and against any liability, damage, loss, expense, claim or judgment arising from injury (including death) to any person (including Buyer's employees) or damage to any property arising from Buyer's resale, repair, replacement, or misuse of any Goods delivered by Seller. If requested by Seller, Buyer at its own expense shall defend any such claim, charge, suit or proceeding which is brought against Seller. Buyer shall pay any judgment finally awarded in any such claim, charge, suit or proceeding, regardless of whether Seller or Buyer directs the defense thereof, and Buyer shall pay any amounts payable in settlement or compromise of any such claim, suit or action.

13. **CONFIDENTIAL INFORMATION.** Unless otherwise specifically agreed in a separate writing, Seller is not obligated to keep confidential any commercial or technical information transmitted to Seller by Buyer. Unless otherwise agreed by Seller in a separate writing, any and all commercial or technical information (including but not limited to specifications, drawings, designs, and manufacturing processes) disclosed in any manner or at any time by Seller to Buyer shall be deemed secret and confidential and Seller expressly reserves all rights with respect thereto as they may exist under any applicable law.

14. **TOOLING.** Tooling stated as a separate line on Seller's invoice shall be for the exclusive use of Buyer, provided that the tooling charge is timely paid in full. Tooling not stated as a separate line on Seller's invoice or amortized in the Price of production output from such tooling, shall be without further charge to Buyer and all rights to such tools will be retained by Seller and available for use with other customers of Seller. All tooling will remain in the permanent possession of Seller unless specific arrangements have been made with the Buyer. In the event any tooling is returned to Buyer, and Buyer subsequently returns tooling to Seller, Buyer is responsible for any costs associated with any repair, modification or replacement of tooling necessary to manufacture acceptable parts.

15. **MODIFICATION, RESCISSION AND WAIVER.** No provision of the terms and conditions between Buyer and Seller shall be deemed to have been waived, modified, or rescinded except in a writing signed by an authorized employee of Seller. The failure of Seller at any time to enforce any of its rights shall not be deemed a waiver of any such rights.

16. **DISPUTES AND APPLICABLE LAW.** All disputes relating hereto shall be governed by the laws of the State of Utah applicable to contracts made and wholly performed within Utah by persons domiciled in Utah, including but not limited to the Utah Uniform Commercial Code. If any term or condition is deemed unlawful or unenforceable by a court of competent jurisdiction for any reason, there shall be deemed to be made such minimal changes as are necessary to render such portion lawful and enforceable and the remainder of the terms hereof shall remain in full force.

17. **ATTORNEYS' FEES.** If any legal action is necessary to enforce the terms contained herein, the prevailing party, shall be entitled to recover its expenses of litigation, including reasonable attorneys' fees, expert witness fees, and court costs, in addition to any other relief to which may be granted.

18. **EXPORT.** Any taxes, duties, fees, charges, or assessments of any nature levied by any governmental authority other than the United States of America (or a state or local jurisdiction therein) in connection with this transaction, whether levied against Buyer, Seller, or Seller's subcontractors, agents, or employees, will be for Buyer's account and shall be paid directly by Buyer to the governmental authority concerned. If Seller is required by law or otherwise made to pay any such taxes, duties, fees, charges or assessments (or any interest or penalties thereon) in the first instance, or as a result of Buyer's failure to comply with any applicable laws or regulations governing such payment, the amount of any payment so made by Seller shall be reimbursed by Buyer upon submission of Seller's invoice.

19. **TRADEMARKS/DOMAIN NAMES.** Any proposed use by Buyer of any trade name, logo, trademark, service mark, copyright, domain name, or other intellectual property of Seller (collectively the "Trademarks") must be approved in writing by Seller prior to use. If so approved, Buyer will sign a separate agreement acknowledging its obligations and limited rights to the Trademarks. All rights to the Trademarks and the goodwill symbolized thereby will belong exclusively to Seller and all use of the Trademarks will inure solely to the benefit of Seller, and Buyer will not acquire any rights to the Trademarks by its use of the same. Buyer may not use the Trademarks in any manner that would tend to injure, demean, or dilute the reputation of Seller or of the goodwill symbolized by the Trademarks. Buyer agrees that it will not contest the ownership or validity of the Trademarks, nor assist anyone else to do so, and that it will not attempt to register or use any marks similar to the Trademarks. Seller reserves the right to take action against any misuse of the Trademarks.

END OF TC001