

1. CONTROLLING TERMS: THE TERMS AND CONDITIONS OF THIS AGREEMENT SHALL CONTROL ALL SALES OF PRODUCT AND LICENSES OF SOFTWARE BY ZINWAVE LTD. ("ZINWAVE") HEREUNDER, AND SHALL SUPERSEDE ALL PRE-PRINTED TERMS AND CONDITIONS CONTAINED IN ANY PURCHASE ORDER OR OTHER BUSINESS FORM SUBMITTED HEREAFTER BY ANY PARTY TO THE OTHER AND ANY INCONSISTENT NON-PRE-PRINTED TERM OF SUCH PURCHASE ORDER OR BUSINESS FORM. ZINWAVE'S FAILURE TO OBJECT TO PROVISIONS CONTAINED IN ANY COMMUNICATION FROM BUYER SHALL NOT BE DEEMED A WAIVER OF THE CONDITIONS OF THIS AGREEMENT.

2a. Orders: All purchase orders shall be in writing (includes electronic) and addressed to Zinwave's primary place of business. Zinwave shall notify Buyer promptly upon becoming aware of any significant changes in applicable production lead times.

A contract between Zinwave and Buyer shall be formed only upon Zinwave's written acceptance of Buyer's order or shipment of Product to Buyer pursuant to Buyer's written purchase order. All orders shall conform to the terms and conditions stipulated in this Agreement.

Product scheduled to ship within 45 days shall not be rescheduled by Buyer. Product scheduled to ship between 45 and 60 days shall be allowed a one-time reschedule of up to sixty (60) days from original ship date.

2b. Order Cancellations:

1. If order is cancelled less than 4-weeks prior to shipment – 50% cancellation fee
2. If order is cancelled less than 8-weeks prior to shipment – 25% cancellation fee
3. If order is cancelled more than 8-weeks prior to shipment – no cancellation fee

3. Delivery and Title: (a) Delivery dates quoted by Zinwave are approximate and are based on prompt receipt of all necessary information from Buyer. Unless otherwise agreed in writing Zinwave shall not be under any liability to the Buyer in respect of any failure to deliver on any particular date or dates. Delivery of any installment of Product within up to thirty (30) days after the specified date by Buyer shall not constitute grounds for a late delivery claim. Zinwave shall not be in default for failure to deliver unless Zinwave does not commence to cure such failure within twenty (20) days after receipt of written notice of failure to deliver from Buyer in accordance with Section 9 below. Buyer's sole remedy for such default shall be cancellation of the order.

(b) Delivery of Product shall be Ex Works (Incoterms 2000) Zinwave's designated point of delivery and upon such delivery risk of loss or damage to the Product shall pass to Buyer. Title to the Products shall pass to Buyer on receipt by Zinwave of payment in full therefore. Zinwave may change such point of delivery upon notice to Buyer. Buyer shall be responsible for paying all freight, insurance and other charges or expenses of any kind beyond such delivery point to a freight forwarder designated by Buyer.

(c) Zinwave shall not be obliged to make any deliveries if the aggregate amount of all invoices issued (whether or not due for payment) exceeds such credit limit as may have been established by Zinwave for the Buyer, or if any amount owing to Zinwave by the Buyer shall not have been paid on the due date.

4. Pricing: All prices are quoted in US Dollars. Under normal circumstances pricing shall be agreed on a quarterly, project, or purchase order basis between Zinwave and Buyer. Outside of normal business practice where Zinwave suffers an unexpected cost increase for raw materials, labour or services whether resulting from governmental action or any other cause beyond Zinwave's control, Zinwave reserves the right to increase prices for any undelivered Product. Any freight, costs and insurance, to the extent not paid directly by Buyer, will be separately set forth on the invoice. Zinwave's prices shall not be subject to audit.

5. Taxes: All prices quoted for Product are exclusive of any and all sales, use, value added, property, transfer, excise and other taxes and all export, import duties and other governmental charges imposed in connection with the terms and conditions herein upon Zinwave, the Product, or the transactions contemplated herein, by the United States, any state of the United States, the European Union, any country or other national, regional or local governmental authority, except only taxes based on Zinwave's net income.

Buyer agrees that it will comply fully with all requirements and prohibitions imposed by any applicable export laws, regulations or rules of any governmental authority of the United Kingdom or the United States, including, without limitation, any agency thereof, or of any other country, upon the export of the Product. Buyer assumes all responsibility for obtaining the required authorization, licenses and approvals.

6. Payment: Payment terms are net thirty (30) days from date of invoice. In many cases Zinwave shall require Buyer to open a line of credit (LC) and demand payment in advance for Product ordered. Payments shall be made without set-off. All overdue amounts shall bear interest at the rate of one and one-half percent (1½%) per month, or the highest rate permitted by applicable law, whichever is less, including Zinwave's costs of collections and attorneys' fees until paid in full. Interest shall accrue on a daily basis. If Buyer is delinquent in payment of any amount due hereunder, Zinwave reserves the right to suspend its performance hereunder, without being in default and without any liability to Buyer, until such time as all such delinquencies are cured. Each shipment to Buyer shall be considered an independent transaction, and payment shall be made per transaction. If at any time, the Buyer delays receipt of shipments, payments to Zinwave shall be due on the date when Zinwave is prepared to make shipment. Product held for the Buyer shall be at the risk and expense of the Buyer.

7. Changes: Zinwave reserves the right to make any changes or modifications, including, without limitation, a design modification, to the Product at any time without incurring any obligation to make any such change or modification to any of the Product previously sold. Zinwave may further discontinue any Product for sale to its customers generally at any time. Should Zinwave discontinue a Product for sale to its customers generally, Buyer will be granted last buy opportunities provided that the delivery dates requested by Buyer must be within six (6) months of the effective date of Zinwave's written notice of discontinuance.

8. Software License: Where software is provided as a Product or part of a Product (the "Software") Zinwave shall provide this in the form of a programmed semiconductor memory, diskette, CD or for downloading over the Internet. Zinwave hereby grants to Buyer a non-exclusive, transferable, limited license, to (i) internally use the Software for purposes of supporting the Product only, and (ii) to sell the Software with the Product, in executable object code form only. All rights in the Software not expressly granted in this Section 8 to Buyer are retained by Zinwave.

9. Software Protection: Without limiting the generality of the last sentence of Section 8, (i) with respect to Software provided in executable object code form, Buyer agrees not to reverse assemble, reverse compile or otherwise reverse engineer the Software, in whole or in part, or otherwise attempt to obtain the source code of the Software or permit any third party to do so, except only if and to the extent such actions are expressly permitted by applicable law, and (ii) Buyer agrees not to modify or prepare derivative works of any Software, and (iii) Buyer agrees not to distribute the Software, except only in executable object code form as part of the Product, or lease, rent, timeshare, transmit or otherwise permit any third party to use or otherwise access any Software (other than as inherent in the normal use of a Product).

10. Acceptance: Use of the Product by Buyer, its agents, employees or licensees, or the failure by Buyer to either return the Product or to notify Zinwave of their intention to return the Product, within five (5) days following delivery of such Product shall constitute acceptance of the shipment by the Buyer.

11. Zinwave's Limited Warranty and Limitation of Liabilities:

(a) Zinwave warrants that each Product, when shipped, and for a period of twelve (12) months thereafter will be in substantial compliance with Zinwave's applicable written technical documentation for the Product. Zinwave shall have the right to make substitutions and modifications from time to time in the specifications of Product sold by Zinwave provided that such substitutions or modifications will not materially affect overall Product performance. In the case that such modifications cause change to the form, fit and/or function of the Product, Zinwave shall provide written notification to Buyer of their intentions and work with Buyer to transition the new device to production in a mutually acceptable manner.

(b) EXCEPT FOR ZINWAVE'S LIMITED WARRANTY SET FORTH IN SECTION 11(a) ABOVE, ZINWAVE PROVIDES THE SOFTWARE "AS IS" AND WITHOUT WARRANTY OF ANY KIND. THE WARRANTY CONTAINED IN SECTION 11 REGARDING THE PRODUCT IS THE ONLY WARRANTY GIVEN BY ZINWAVE. ZINWAVE EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE, ANY WARRANTY OF NON-INFRINGEMENT, AND ANY WARRANTY THAT MAY ARISE BY REASON OF USAGE OF TRADE, CUSTOM OR COURSE OF DEALING, AND BUYER HEREBY EXPRESSLY WAIVES ANY AND ALL SUCH WARRANTIES.

(c) With respect to any claims asserting breach of the limited warranty set forth in Section 11(a) above, Zinwave's liability is limited, at Zinwave's option, to replacing, repairing or issuing credit to Buyer (without interest), provided that prior to any replacement, repair or credit the following conditions are satisfied: (i) Zinwave is promptly notified in writing by Buyer upon discovery of any such breach; (ii) the defective Product(s) are returned to Zinwave, transportation charges prepaid by Buyer; (iii) the defective Product(s) are received by Zinwave for adjustment no later than four (4) weeks following the last day of the warranty period along with proof of purchase; and (iv) Zinwave's examination of such Product shall disclose to Zinwave's own satisfaction that such failures did not arise as a result of misuse, abuse, improper installation or application, repair, alteration, or accident, or negligence in use, storage, transportation or handling by a person or entity other than Zinwave.

(d) ZINWAVE SHALL NOT BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE NOR FOR ANY LOSS OF PROFIT, PROMOTIONAL OR MANUFACTURING EXPENSES, OVERHEAD, INJURY TO REPUTATION OR LOSS TO CUSTOMERS, ARISING OUT OF OR IN CONNECTION WITH DEFECTS IN WORKMANSHIP OR MATERIAL, FAILURE TO MEET SPECIFICATIONS OR ANY OTHER CLAIM ARISING HEREUNDER.

(e) BUYER'S RECOVERY FROM ZINWAVE FOR ANY CLAIM SHALL NOT EXCEED BUYER'S PURCHASE PRICE FROM ZINWAVE FOR THE PRODUCT, IRRESPECTIVE OF THE NATURE OF THE CLAIM, WHETHER IN CONTRACT, TORT, WARRANTY OR OTHERWISE.

(f) THE REMEDIES PROVIDED IN SECTION 11(c) ARE BUYER'S SOLE AND EXCLUSIVE REMEDIES FOR BREACH OF WARRANTY OR BREACH OF CONTRACT BY ZINWAVE.

(g) NOTHING IN THIS AGREEMENT SHALL IN ANY WAY LIMIT THE LIABILITY OF EITHER PARTY FOR DEATH OR PERSONAL INJURY RESULTING FROM ITS NEGLIGENCE OR FOR FRAUD.

12. Default: (a) If Buyer becomes insolvent, bankrupt, makes an assignment for the benefit of its creditors or is otherwise unable to meet its obligations as they come due, such an event shall be deemed a material default, entitling Zinwave to cease performance hereunder and to avail itself of all legal and equitable remedies it may have against Buyer.

(b) In the event of any default by Buyer including any breach of any of its obligations hereunder, Zinwave may decline to make further shipments without in any way affecting its rights under the Terms and Conditions set forth and may cease performance hereunder and avail itself of all legal and equitable remedies it may have against Buyer. If despite default by Buyer, Zinwave elects to continue to make shipments, Zinwave's action shall not constitute a waiver of any default by Buyer or in any way affect Zinwave's legal remedies for any such default.

13. Assignment: Buyer shall not assign its order or any interest in or any rights hereunder without the prior written consent of Zinwave.

14. Advice/Training: Buyer acknowledges that no installation, training or education is contracted for or purchased hereunder unless specifically agreed to in writing. If Zinwave offers or gives technical advice or performs any training in connection with the use of any Product, such advice or training will be provided only as an accommodation to Buyer, and Zinwave shall have no responsibilities or liabilities whatsoever for the content or use of such advice or for any damages that may result from the use, support, maintenance, servicing or alteration of the Product by a Zinwave representative.

15. Intellectual Property; Confidentiality: (a) Ownership: The parties agree that the Product, including all intellectual property rights therein and thereto, are owned exclusively by Zinwave (and its licensor(s), if any), and that Buyer shall have no rights therein or thereto by virtue of these Terms and Conditions or otherwise, except only for the license to the Software granted in Section 8 hereof.

(b) Confidentiality: Buyer agrees to treat all engineering and technical information of or relating to the Product including the Software provided by Zinwave (together the "Confidential Information") as strictly confidential, and shall use the same care to prevent disclosure of such information as Buyer uses with respect to its own valuable confidential and proprietary information of like kind, but not less than reasonable care. Buyer may disclose any Confidential Information to (i) only those authorised employees of Buyer whose duties justify their need to know such information and who have been clearly informed of their obligation to maintain the confidential and proprietary status of such Confidential Information, and (ii) only those authorised contractors of Buyers who have a need to know such information in performing their duties for Buyer and who have signed a confidentiality agreement with Buyer at least as protective of such Confidential Information as the provisions of this Agreement. Confidential Information may only be used for the purposes expressly permitted under the Terms and Conditions set forth herein.

16. Force Majeure: Zinwave shall not be liable to Buyer for any failure to perform or delay in performing any of its obligations hereunder when such failure or delay is due to circumstances beyond its reasonable control, including, without limitation, any act of God, war, strike, riot, fire, flood, earthquake, lock-out, or other labour disturbance, late or non-delivery by suppliers, shortage or unavailability of materials, components or transportation facilities, assertion by a third party of an infringement claim, or any act, refusal to act, regulation, order or intervention of any governmental authority.

17. Jurisdiction: All contracts incorporating these Terms and Conditions shall be governed by and construed in accordance with UK Law and the parties hereby submit to the exclusive jurisdiction of these Courts.