

Zolo Technologies, Inc.
Purchase Order Terms and Conditions

UNLESS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS PURCHASE ORDER ("Order") CONSTITUTES THE ENTIRE CONTRACT BETWEEN THE SELLER NAMED ON THE FACE HEREOF AND ZOLO TECHNOLOGIES, INC., ("ZOLO") COVERING THE PRODUCTS ("Products") DESCRIBED HEREIN. ZOLO SHALL NOT BE BOUND BY ANY ACKNOWLEDGEMENT, FORM OR OTHER DOCUMENT PREPARED BY SELLER THAT RELATES TO THIS ORDER UNLESS ZOLO EXPRESSLY ASSENTS THERETO IN WRITING. SHIPMENT OF ANY PRODUCTS SHALL BE CONCLUSIVE EVIDENCE OF SELLER'S ACCEPTANCE OF ALL THE PROVISIONS HEREOF, REGARDLESS OF WHETHER SELLER HAS OTHERWISE ACKNOWLEDGED THIS ORDER.

1. PRICES: All prices shown on the face of this Order are maximum prices to be charged for the Products. Due dates for payment of invoices shall be computed from the date of receipt of the Products by ZOLO.

2. SHIPPING: Unless instructed otherwise, Seller shall (1) ship the Products covered by this Order F.O.B. the place of destination bearing the risk of loss or damage in transit and otherwise in accordance with the instructions appearing on the face of this Order; and place the Order number on all packaging and shipping documents. Seller shall provide adequate packing at no additional charge suitable for shipment and storage and in compliance with the relevant carrier's tariffs and shall bear full responsibility for damage due to improper packing of the Products. The parties agree that time is of the essence for this Order.

3. INSPECTION: ZOLO shall have a reasonable period of time after delivery to inspect and accept the Products. If ZOLO discovers defective or non-conforming Products, ZOLO may at its option and without prejudice to any other rights or remedies it may have at law: (a) ZOLO may reject such defective and non-conforming Products, and, at Seller's expense, return the same for refund, credit, repair or replacement or (b) obtain a price reduction. If Seller delivers a quantity of Products greater than that specified on this Order, ZOLO may reject all or part of the excess quantity or accept all or part of such excess quantity. Any excess quantity of Products accepted by ZOLO shall be subjected to the terms and conditions of this Order. If Seller delivers a quantity of Products less than that specified herein, ZOLO may cancel this Order with respect to the undelivered quantity of Products without any liability to Seller whatsoever.

4. WARRANTY: Seller represents and warrants to ZOLO and its customers that the products will be new, merchantable, free from defects in design, material and workmanship and, where applicable, will conform to and perform in accordance with specifications, drawings and samples furnished or accepted by ZOLO. If Products contain manufacturers' warranties, Seller hereby assigns such warranties to ZOLO and its customers and upon request shall provide details of such warranties to ZOLO and its customers. Products failing to comply with Seller's warranty will be, at ZOLO's option, (a) returned for a full refund or credit of amounts paid by ZOLO for the defective Product, (b) repaired by Seller, or (c) replaced by Seller, at no cost or expense to ZOLO

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or its customers and with shipping and transportation costs and risk of loss and damage in transit borne by Seller. With respect to Products failing to comply with the relevant manufacturer's warranties, ZOLO shall have the rights and remedies set forth in such warranties. Repaired and replaced Products shall also contain Seller's or manufacturers' warranties, as applicable, provided in this clause. To the extent that the Products are manufactured in accordance with designs not furnished by ZOLO, or by a process or method which is not specifically approved by ZOLO, Seller warrants that the sale of such Products to ZOLO and ZOLO's use of the same shall not infringe any U.S. or foreign intellectual property rights of any third party. The above warranties, together with Seller's service warranties and guarantees, if any, shall survive inspection, test, acceptance of and payment for the Products and shall inure to the benefit of ZOLO, its customers and their respective successors and assigns.

5. LATE DELIVERY: Seller shall notify ZOLO as soon as it becomes aware that it cannot meet the delivery date specified on the face of this Order, and Seller shall propose a new delivery date. In the event of such delay, Seller will, at no additional cost to ZOLO, employ accelerated measures such as material expediting fees, premium transportation costs and labor overtime to ensure that the Products are delivered on or before the revised delivery date. In the event a delay in delivery or the new delivery date proposed by Seller is not acceptable to ZOLO, in addition to any other rights and remedies that may be available to it at law, ZOLO may cancel this Order without any liability whatsoever to Seller.

6. CANCELLATION: At any time, upon prior notice to Seller, ZOLO may cancel, terminate, suspend performance of, or issue a hold on, elect to suspend (collectively "Cancel") this Order, in whole or in part, without Seller's consent. ZOLO will work with Seller to reasonably determine any cancellation charge if applicable.

7. INDEMNITY: Seller agrees to indemnify and hold harmless ZOLO, its affiliates and customers and their directors, officers, employees, agents, subcontractors and other representatives from any and all loss, damage, liability, cost (including reasonable legal fees), penalty or any other expense of whatever nature (collectively "Claims") arising out of any act or omission of Seller (including negligence) relating to this Order, the Products or to work performed pursuant to this Order. The foregoing includes, without limitation, any Claims relating to allegations, actions or proceedings for breach of contract, in tort (including negligence), intellectual property infringement, any statutory, regulatory or other legal claims, claims for bodily injury (including death) and damage to property. Seller agrees to furnish, upon request by ZOLO, evidence of Seller's comprehensive general liability and property damage insurance with minimum limits of \$1,000,000 per occurrence and Worker's Compensation insurance covering all of Seller's employees performing this Order.

8. CONFIDENTIAL INFORMATION: Certain information provided by ZOLO in connection with this Order is confidential in nature. "Confidential Information" shall include any business, marketing, technical, scientific, financial or other information, specifications, designs, plans, drawings, software, prototypes or process techniques of

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ZOLO, an affiliate or other third party, which at the time of disclosure, is designated as or reasonably understood to be confidential in nature, including the identity of the parties and the fact that the parties are in contact with each other, all related to this Order. Seller shall hold Confidential information in confidence and shall not disclose to third parties or use Confidential information. Confidential Information does not include information that (a) is or becomes publicly available through no fault of Seller; or (b) is disclosed to Seller by a third party entitled to disclose it and who is not under any obligations of confidence; or (c) Seller can establish was known to Seller prior to the date of disclosure by ZOLO; or (d) is required by law to be disclosed; or (e) Seller can establish was developed independently by Seller without the use of Confidential information. Seller may only use Confidential Information for the purpose of fulfilling its obligations under this Order. Seller shall, upon written request by ZOLO, promptly return and/or destroy all Confidential Information in its possession or control, as well as all material that incorporates any Confidential information. Seller shall not disclose, without the prior written consent of ZOLO any Confidential Information to any third party other than its employees, contractors or other third parties under similar obligations of confidence who have a need to know such information. Seller shall assume full responsibility and shall indemnify and hold ZOLO harmless for the unauthorized disclosure or use of any Confidential Information

by its employees contractors or any other third party to whom Seller is authorized to disclose Confidential Information pursuant to this paragraph. All obligations of confidentiality and non-disclosure set forth in this Order will survive, without limitation, the expiration or earlier termination of this Order. Where the parties have entered into a separate a non-disclosure agreement that covers the subject-matter of this Order, that non-disclosure agreement, to the extent applicable, shall supersede this Section 8.

9. LIABILITY: IN NO EVENT SHALL ZOLO OR ITS AFFILIATES, THEIR DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUBCONTRACTORS OR OTHER REPRESENTATIVES BE LIABLE TO SELLER FOR SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR INDIRECT COSTS, EXPENSE OR DAMAGES, INCLUDING WITHOUT LIMITATION, LITIGATION COSTS, THE LOSS OF PRODUCTION OR PROFIT ARISING FROM ANY CAUSE WHATSOEVER, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH COSTS OR DAMAGES OR EVEN IF SUCH COSTS OR DAMAGES ARE ALLEGED TO ARISE FROM NEGLIGENT ACTS, OMISSIONS OR CONDUCT OF ZOLO OR ITS AFFILIATES, THEIR OFFICERS, DIRECTORS EMPLOYEES, AGENTS, SUBCONTRACTORS OR OTHER REPRESENTATIVES. IN NO EVENT SHALL ZOLO'S LIABILITY TO SELLER UNDER THIS ORDER EXCEED ANY UNPAID AMOUNTS DUE UNDER THIS ORDER.

10. OWNERSHIP OF MATERIALS: All right, title and interest in and to all Products and related deliverables produced or delivered by Seller pursuant to this Order shall belong to and vest in ZOLO, including without limitation, all intellectual property rights, including copyright and rights to patent any invention disclosed by such Products and deliverables. Seller agrees to execute all necessary applications, assignments and other documents necessary to vest such rights in ZOLO, and to testify and cooperate in any

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litigation or proceedings relating to the same. All Products and related deliverables shall be deemed confidential and trade secret information of ZOLO and Seller shall maintain the confidentiality of same in accordance with its confidentiality obligations herein. The provisions of this clause do not apply to any materials previously belonging to Seller or acquired by Seller in a manner independent of this Order that are used by Seller in the course of work performed pursuant to, or in order to fulfill, this Order, including changes and improvements in said material.

11. MISCELLANEOUS: Any delay by ZOLO in the exercise of any right or remedy provided herein shall in no event be deemed to be a waiver of such right or remedy. To be valid, any waiver by ZOLO must be made in writing and must expressly reference this Order. A valid waiver of any right or remedy herein shall in no event be deemed to (a) constitute a waiver of such right or remedy arising in the future or (b) operate as a waiver of any other right or remedy. ZOLO may assign its rights and obligations under this Order without requiring any notice to or consent from Seller. Seller may not delegate, assign or transfer any right or obligations hereunder without the prior written consent of ZOLO. This Order shall be governed and construed in accordance with the laws of the State of Colorado and any action brought to enforce its terms or for breach thereof shall be brought in the District Court for the Twentieth Judicial District, County of Boulder, Colorado. The parties irrevocably consent to the jurisdiction of such court and waive any right to alter or change venue, including by removal. In the event of any action or proceeding between the parties arising out or pursuant to this Order, the prevailing party in such action or proceeding shall be entitled to recover all of its costs and expenses incurred in connection therewith, including reasonable attorney's fees.