

ZODIAC DATA SYSTEMS

STANDARD TERMS AND CONDITIONS OF SALE AND LICENSE

This offer or order confirmation, pursuant to which (a) Zodiac Data Systems, Inc. ("**Seller**") will sell and deliver the type and number of products set herein (the "**Products**"), perform certain services related thereto (the "**Services**") and license any technology embedded within the Products and the object code version of computer software or code embedded within or running on the Products (the "**Technology**") to the buyer identified on the order confirmation ("**Buyer**"), and (b) Buyer will purchase and accept or cause to be accepted the Products, receive the Services and license the Technology from Seller, is governed by the following terms and conditions (together with the order confirmation, the "**Order Confirmation**"):

1. FORMATION OF AGREEMENT

Seller will be deemed to have accepted this Order Confirmation when: (i) Seller returns an acknowledgement copy, or (ii) at Seller's option, when Seller begins substantial performance. Buyer accepts this Order Confirmation by acknowledging a copy of the same, by confirming the same by its purchase order or confirmation, or by acceptance of delivery of the Products, or by any other method under law. Buyer will be presumed to have accepted this Order Confirmation unless Buyer rejects it in writing within 7 days from the date hereof. If Buyer rejects this Order Confirmation in accordance with the foregoing, neither party will be bound to sell, deliver, license or pay for the Products or Services or previously otherwise be bound by any term or condition hereof, and Buyer will, at its own expense, return all Products previously delivered to Buyer hereunder and will hold such Products for Seller's benefit as Seller's fiduciary agent and bailee until so returned. Notwithstanding the manner in which Buyer accepts, Buyer's acceptance is limited exclusively to the acceptance of these terms and conditions only. Seller hereby objects to and rejects any proposal by Buyer for additional or different terms in connection. Any and all contrary terms, conditions and provisions contained in any purchase order, acknowledgement form or other communications with respect to the transaction contemplated by this Order Confirmation, or subsequent to the date hereof, are agreed to be superfluous and without any force and effect.

2. SALE AND LICENSE

2.1 Sale of Products. On and subject to the terms and conditions herein, Seller will sell the Products to Buyer and Buyer will purchase them from Seller. Such sale will give Buyer physical possession and use of the Products. However, title to the Products will remain in Seller until Buyer has paid Seller in full for the Products.

2.2 Licensed Intellectual Property. On and subject to the other terms and conditions herein, Seller grants Buyer a nontransferable (except as set forth in Section 8.3), non-exclusive, limited right to (a) operate the Technology in accordance with the specifications for the Products, and (b) use the materials relating to the Products and Technology, including drawings, diagrams, specifications, training manuals and user manuals, that Seller provides to Buyer (the "**Documentation**") and Seller's trademarks and service marks relating to the Products (together, the Technology, Documentation and such trademarks and service marks will be the "**Licensed Intellectual Property**") in accordance with Seller's current usage policies, solely for purposes of operating the Products and Technology, provided that Buyer will not remove, alter or obscure any of Seller's proprietary marks on the Products. Buyer will not use the Licensed Intellectual Property other than as provided in this Section 2.2.

3. SHIPMENT AND PAYMENT

3.1 Shipment. Seller will package and ship the Products to Buyer F.O.B. Buyer's shipment address set forth in the Order Confirmation, at Buyer's cost. Any delivery dates, requested or agreed, are estimates only. Seller may deliver early. Seller disclaims any liability or responsibility for the late or non-delivery of goods hereunder. Seller shall additionally not be liable for failure to deliver or delays in delivery of the Products if such failure or delay is due, in whole or part, to any cause or conduct beyond the reasonable control of Seller. Seller will endeavor to ship all orders complete or as complete as reasonably possible. Seller will, however, ship incomplete orders upon written authorization by Buyer and in such event, shall have no liability for such short or incomplete order. To preserve any claims against carriers for damages or short shipments, Buyer must report its claim in writing directly to carrier, with a copy of the claim to Seller. This must occur as soon as possible after receipt of the Products, but in no case should exceed seven (7) days for air shipments and fourteen (14) days for all other shipments. In addition, to preserve any claim against Seller for non-conforming Products, Buyer must report its claim in writing to Buyer within fourteen (14) days from the date of receipt. The design and specifications of the Products are subject to change without notice. Seller reserves the right to ship the latest type and design of Products at the contract price set forth in this Order Confirmation and shall have no liability or obligation for changes in design or specifications solely. Solely in the event Product or specifications are changed, Buyer may, within fourteen (14) days of

receiving notice of any changes in design or specifications, cancel this Order Confirmation without liability, but only if the changes in design or specifications would have a negative material impact upon the business or operations of Buyer or otherwise render this Order Confirmation or the delivery or use of the Products commercially impracticable.

3.2 Risk of Loss, Security Interest and Retention of Title.

(a) Risk of loss to the Products will pass to Buyer when Seller delivers the Products to a carrier for shipment to Buyer.

(b) Buyer will not pledge, provide as collateral, allow placement of a lien on, or otherwise encumber or in any way charge by way of security for any indebtedness any Products or their documents of title until title to such Products passes to Buyer.

(c) To the extent the Products will be delivered to the United States, the provisions of this Section 3.2(c) will apply. To secure prompt and full payment of Buyer's obligations hereunder, Buyer hereby grants Seller a security interest in the Products and the license of the Licensed Intellectual Property, and all proceeds thereof. Seller may file, and Buyer will assist Seller in the filing of, financing statements and other documents and instruments evidencing such grant. If at any time Buyer is in default of payment hereunder, then, in addition to all other remedies available to Seller, Seller may exercise all remedies of a secured party under the laws of the United States, including, without limitation, directing any third parties purchasing the Products from Buyer to pay Seller directly for such Products.

(d) To the extent the Products will be delivered outside of the United States, the provisions of this Section 3.2(d) will apply. Until title to all Products passes to Buyer, Buyer will hold the Products in the Buyer's possession or control as Seller's fiduciary agent and bailee (in which full title to the Products will remain), will keep the Products separate from those of Buyer and third parties and properly stored, protected and insured, and will mark and identify the Products as Seller's property. Until title to all Products passes to Buyer, if at any time Buyer is in default of payment hereunder, then: (i) Seller may require Buyer to deliver the Products to Seller and, if Buyer fails to do so forthwith, Seller may enter upon any premises of Buyer or any third party where the Products are stored and repossess them; (ii) Buyer will ensure that any third party which holds the Products will permit Seller to take possession of them and will indemnify Seller against any liability which it may incur to such third party in connection with taking or attempting to take possession of the Products; and (iii) Seller may use or dispose of the Products as it wishes.

3.3 Payment. Seller will provide an invoice to Buyer with respect to all Products and Services. Buyer will pay the price for the Products and any Services and the Licensed Intellectual Property in full by bank transfer within 30 days after the later of: (a) the date of the invoice, (b) the date on which the Products are delivered to the carrier for shipment, or (c) with respect to Services, the date on which Services are rendered, unless otherwise agreed in writing by Seller. If, in Seller's judgment, the financial condition of Buyer at any time does not justify continuation of production or shipment of Products on the terms of payment specified, Seller may cancel any unfilled order or part thereof unless Buyer, upon notice thereof, immediately renders payment for all such Products. The per-unit prices stated on each invoice are exclusive of, and Buyer will be responsible for, all taxes, duties, insurance, shipping, storage and handling charges or similar costs applicable to Buyer's purchase of the Products, receipt of Services or license of the Licensed Intellectual Property. If Buyer is exempt from paying sales tax relating to the purchase of Products, Buyer must furnish tax exempt certification to Seller at the time it signs this Order Confirmation. Failure to do so shall render Buyer liable to reimburse Seller for any such tax paid. Payment by Buyer will not be subject to set off or credit. If Buyer pays Seller any amount without identifying the invoice or Products in respect of which that payment is made, Seller may apply such payment in its sole discretion. Settlements by check or credit transfer will be deemed paid when Seller's account is credited with cleared funds. Seller may charge Buyer and Buyer will pay interest on past due amounts under this Order Confirmation at the rate of one and one-half percent (1.5%) per month or the maximum rate permitted by law, whichever is less.

4. INTELLECTUAL PROPERTY

4.1 General. Buyer acknowledges that Seller owns (as between Seller and Buyer) and will retain all ownership in the intellectual property relating to the Products and Licensed Intellectual Property, including, without limitation, copyright, trademark, trade secret, know-how, database, design and patent rights, and all tangible and intangible components thereof, and any improvements, modifications, design contributions or derivative works thereto or thereof conceived or created by either party, whenever developed (the "**Seller Intellectual Property**").

4.2 Technology. Buyer will not: (a) decode, reverse engineer, reprint, transcribe or reproduce, in whole or in part, the Technology, (b) modify or enhance the Technology, or (c) otherwise access or manipulate the Technology, except

as expressly permitted in writing by Seller. Buyer acknowledges that software or other intellectual property provided by a third-party licensor of Seller (“**Third-Party Intellectual Property**”) may be incorporated in the Products. Buyer will abide by the applicable terms and conditions with respect to such Third-Party Intellectual Property, whether set forth in Documentation, “read me” files contained in the Products or otherwise. Regardless of any additional terms, any Third-Party Intellectual Property will be governed by the terms and conditions of this Order Confirmation that are applicable to the Licensed Intellectual Property.

4.3 Export Controls. Buyer may not download or otherwise export or re-export the Products or Technology or any underlying information except in full compliance with all US and other applicable laws. The Products or Technology may be subject to the licensing jurisdiction of the Department of State in accordance with the ITAR or EAR. In particular, but without limitation, none of the Products or Technology or underlying information may be downloaded or otherwise exported or re-exported: (i) into, or to a national or resident of any country to which the US has embargoed goods; or (ii) to anyone on the US Treasury Department’s list of Specially Designated Nationals for the US Commerce Department’s table of Deny Orders. Seller reserves the right at its own discretion to suspend performance without penalty if Buyer is in violation of applicable regulations.

4.4 Unauthorized Use. Buyer will notify Seller immediately upon discovery of any unauthorized use, copying or disclosure of the Seller Intellectual Property. Buyer will not impair Seller’s rights in the Seller Intellectual Property.

5. REPRESENTATIONS AND WARRANTIES

5.1 Defects. Unless a specific warranty is provided for a Product, in which event such Product-specific warranty shall control, Seller represents and warrants to Buyer that, for twelve (12) months after the date of the invoice, its Products will be free from defects in material and workmanship, except to the extent any defect or non-conformance is caused by any: (a) modification of the Product by Buyer, (b) incorporation or integration of the Product into or with Buyer Equipment, (c) use of the Product in an unauthorized manner or in a manner inconsistent with the Product Documentation, or (d) damage to the Product not caused by Seller. If any of the Products fail to meet the warranty set forth in the first sentence of this Section 5.1, then: (a) Buyer will promptly notify the Seller of the Product’s alleged defect and provide Seller with other evidence and documentation of such non-conformance as reasonably requested by Seller (the “**Warranty Claim**”), and (b) as Buyer’s sole remedy, Seller will promptly (but in no event later than 30 days after receipt of such Warranty Claim from Buyer) repair or correct such non-conformance (either on-site at Buyer’s premises or by requesting Buyer to return the Product to Seller at Seller’s expense), Credit Buyer’s account or replace such Products with conforming Products at Seller’s expense. To the extent any Products were not manufactured by Seller, such Products carry the same warranty that Seller receives from its manufacturer.

5.2 Technology Warranty. Unless a specific warranty is provided for a Product, in which event such Product-specific warranty shall control, Seller will, prior to delivery of the Technology to Buyer, scan the Technology for known viruses using virus detection software that Seller deems adequate for the purpose. If the Technology fails to meet the warranty set forth in the first sentence of this Section 5.2, then: (a) Buyer will promptly make a Warranty Claim, and (b), as Buyer’s sole remedy, Seller will promptly (but in no event later than 30 days after receipt of such Warranty Claim from Buyer) correct such non-conformance or replace the Technology with conforming Technology at Seller’s expense.

5.3 Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN THIS ORDER CONFIRMATION OR ANY SUPPLEMENTAL MATERIALS PROVIDED BY SELLER CONTEMPORANEOUSLY HEREWITH, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WRITTEN OR ORAL, RELATING TO THE PRODUCTS, THE LICENSED INTELLECTUAL PROPERTY OR THE PERFORMANCE OF ITS OBLIGATIONS UNDER THIS ORDER CONFIRMATION, AND SELLER HEREBY DISCLAIMS ALL IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW (INCLUDING, WITHOUT LIMITATION, WARRANTIES OF DESCRIPTION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES OF COURSE OF DEALING OR USAGE OF TRADE) TO THE EXTENT PERMISSIBLE.

5.4 Acknowledgment. The parties agree that the restrictions in this Section 5 are reasonable in light of their relationship and the availability of insurance against such risks.

6. LIMITATION OF LIABILITY / INDEMNIFICATION

6.1 Limitation of Liability.

(a) SELLER WILL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES (WHICH MAY INCLUDE BUT ARE NOT LIMITED TO LOST PROFITS, LOSS OF USE, GOODWILL OR BUSINESS INTERRUPTIONS) ARISING OUT OF OR RELATING TO THIS ORDER CONFIRMATION, THE PRODUCTS OR THE LICENSED INTELLECTUAL PROPERTY, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) SELLER'S TOTAL LIABILITY UNDER THIS ORDER CONFIRMATION WILL NOT EXCEED THE AMOUNT RECEIVED OR DUE FROM BUYER FOR THE PRODUCTS AND LICENSED INTELLECTUAL PROPERTY.

6.2 Indemnification. Buyer will indemnify, defend and hold Seller harmless from any and all claims, demands or other liabilities, including reasonable legal fees, arising out of or relating to Buyer's breach of any provision of this Order Confirmation or Buyer's relationship with its customers or Transferees (as defined in Section 8.3), except to the extent such claim, demand or other liability arises from the gross negligence or willful misconduct of Seller.

6.3 Product Claims. If Buyer becomes aware that any third party has made or appears likely to make any claim regarding the Products (including, without limitation, regarding Product defects or rights infringed by the Products), then Buyer will immediately inform Seller and afford to Seller all assistance (such as permitting Seller to have conduct of any proceedings) which Seller may require to enforce its rights and defend such claim.

7. TERMINATION

7.1 Execution. The Buyer will terminate by delivering to Seller a written Notice of Termination specifying the effective date of contract termination.

After receipt of a Notice of Termination, Seller will immediately proceed as follows:

- (1) Stop work as specified in the Notice of Termination.
- (2) Place no further subcontracts or orders (referred to as subcontracts hereafter) for materials, services, or facilities in respect of the work terminated.
- (3) Terminate all subcontracts to the extent that they properly relate to the work terminated.
- (4) Settle all outstanding liabilities and termination settlements arising from the termination of subcontracts.
- (5) Transfer title and deliver to the Buyer after receipt of settlement amount —
 - (i) The fabricated and/or un-fabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated; and
 - (ii) The completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Buyer.

7.2 Inventory. The Seller will submit a complete termination inventory no later than 120 days from the effective date of termination

7.3 Settlement Price. After termination, the Seller will submit a final termination settlement price to the Buyer. The amount will include a reasonable allowance for profit on work done based on the proportion of the cost of work done in relation to the cost of the total contract. The settlement amount will not exceed the total contract price as reduced by any payments previously made by the Buyer.

The settlement amount will include:

- (1) The contract price for completed supplies or services accepted by the Buyer not previously paid for and,
- (2) The total of—
 - (i) The costs incurred in the performance of the work terminated but not completed, including initial costs and preparatory expense allocable thereto,
 - (ii) The costs of settling and paying termination settlements under terminated subcontracts that are properly chargeable to the terminated portion of the contract
 - (iii) A sum, as a reasonable allowance for profit on work done based on the proportion of the cost of work completed in relation to the total cost of contract work.
- (3) The reasonable costs of settlement of the work terminated, including—
 - (i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;
 - (ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and
 - (iii) Storage, transportation, and other costs incurred
- (4) The settlement price amount will be due to Seller under the payment terms of the terminated contract.

7.4 Partial Termination. If the termination is partial, the Seller will provide written notice to the Buyer of the adjustment of the contract and the associated price changes and delivery terms of the continued portion of the contract. The Buyer will acknowledge such adjustment in writing within 30 days of the notice being issued. Seller will not proceed with work on the continued portion of the contract until such acknowledgement is received from Buyer.

8. CONFIDENTIALITY

8.1 Definition. A party's "**confidential information**" means information or data (in oral, written, electronic or other form), including, without limitation, any trade secret or know-how, related to or owned or controlled by such party, valuable to such party and not generally known or readily available through legal means (other than its disclosure in reliance on this Order Confirmation) to the other party. Buyer acknowledges that the Products and Licensed Intellectual Property contain confidential information of Seller.

8.2 Obligations. A party may use the other party's confidential information to perform its obligations and exercise its rights under this Order Confirmation, but may disclose it only to its officers, directors and employees on a need-to-know basis after informing any such disclosees that it is confidential and directing them to comply with this Order Confirmation. Notwithstanding the foregoing, after giving reasonable notice to the other party (which notice affords the other party an opportunity to seek a protective order or other remedy), a party may disclose the other party's confidential information to the extent required by law. On request, a party will return or destroy all records that contain or reflect the other party's confidential information.

8.3 Remedy. A party may seek injunctive relief to redress or prevent violations of this Section 7, in addition to, and not in lieu of, any other rights and remedies available to such party.

8.4 Survival. Confidential information that is not a trade secret or know-how will cease to be protected hereunder on the third anniversary of its disclosure. Confidential information that is a trade secret or know-how will be protected for so long as such confidential information constitutes a trade secret or know-how under applicable law.

9. MISCELLANEOUS

9.1 Force Majeure. If Seller's performance under this Order Confirmation is prevented, hindered or delayed by reason of any cause beyond the reasonable control of Seller (any such event being hereafter called an "**Event**"), such as acts of God, riots, fires, floods, unusually severe weather, extreme heat or cold, power or communications failures, acts or omissions of suppliers, transportation delays, unavailability of supplies or materials, acts or omissions of civil or military authorities, war, acts of terrorism or embargoes, strikes, lockouts or other labor disputes, then Seller will be excused from performance to the extent that its performance is prevented, hindered or delayed. Seller will give Buyer notice specifying the Event, the performance affected and the anticipated date, if any, by which performance can be made. Such excuse from performance will extend so long as the Event continues to prevent, hinder or delay Seller's performance but Buyer will be entitled to terminate this Order Confirmation if such performance is prevented, hindered or delayed for more than 40 days.

9.2 Compliance with Law. Each party will comply with all applicable laws, regulations and orders bearing on its rights and obligations hereunder.

9.3 Transfer and Assignment. This Order Confirmation will be binding upon and will inure to the benefit of the parties and their respective successors and permitted assigns ("**Transferees**"); provided, however, that Buyer shall not assign this Order Confirmation without the prior written Consent of Seller.

9.4 Relationship of the Parties. Seller and Buyer are independent contractors. No agency, partnership, joint venture or other joint relation is created between them. Neither has the authority to bind the other or to incur any obligation on the other's behalf.

9.5 Governing Law and Jurisdiction. This Order Confirmation is governed by laws and courts in the state of Georgia, USA and the parties agree to apply Georgia law and submit to the exclusive jurisdiction of courts in the state of Georgia, USA. The parties hereby waive all rights to a jury trial in connection with claims under this Order Confirmation.

9.6 No Waiver. No waiver of any term or condition herein will be binding unless it is in writing signed by the waiving party. The failure of a party to require full performance of this Order Confirmation, or the waiver by a party of any

breach of this Order Confirmation, will not govern a subsequent enforcement of such terms, or waive any subsequent breach.

9.7 Severability. If a court invalidates any right or restriction herein that is not essential to the commercial purpose hereof, then the remainder of this Order Confirmation will remain in full force and effect. To the extent legally permissible, the parties will replace any illegal, invalid or unenforceable provision hereof with a valid provision that implements the commercial purpose of the replaced provision.

9.8 Survival. Section 2.2 (Licensed Intellectual Property), 4 (Intellectual Property Ownership), 6 (Limitation of Liability / Indemnification), 8 (Confidentiality), and this Section 9 (Miscellaneous) will survive the performance by each party of its obligations hereunder and will continue in full force and effect.

9.9 Entire Agreement. This Order Confirmation constitutes the entire agreement and understanding between the parties and supersedes all previous understandings, agreements, communications and representations, whether written or oral, concerning the subject matter of this Order Confirmation. If there is any conflict between the terms of the order confirmation and these terms and conditions, the terms of the order confirmation will control. This Order Confirmation may be amended, modified or supplemented only by a writing that expressly refers to this Order Confirmation and is signed by the adversely affected party.

[Remainder of page left intentionally blank]