
ZEFON INTERNATIONAL, INC.
TERMS AND CONDITIONS OF SALE

THESE ZEFON INTERNATIONAL, INC. TERMS AND CONDITIONS OF SALE (collectively, these "Terms") ARE LEGALLY BINDING ON THE CUSTOMER NAMED IN THE ORDER (the "Customer") AND ZEFON INTERNATIONAL, INC. ("Zefon") AND ARE INCORPORATED BY REFERENCE INTO AND ARE A PART OF THE PRICE QUOTE, INVOICE AND/OR ORDER CONFIRMATION (COLLECTIVELY, "ORDER") FOR CERTAIN GOODS OR SERVICES TO OR IN WHICH THEY ARE REFERENCED AND/OR ATTACHED (all such products and materials are referred to herein as the "goods"). THESE TERMS, TOGETHER WITH THE ORDER, SHALL CONSTITUTE A VALID AND BINDING AGREEMENT MADE AND ENTERED INTO BY CUSTOMER AND ZEFON.

1. **OFFER AND ACCEPTANCE.** All proposals, sales and purchases of goods between the parties shall be governed exclusively by these Terms. Any additional or differing terms or conditions contained on or in Customer's proposal, purchase order or any other communication shall be automatically rejected and shall not become a part of these Terms or the agreement for the purchase and sale of goods.

2. **ZEFON'S RIGHT OF REJECTION.** If Zefon determines, in its sole discretion, that Customer does not possess sufficient creditworthiness to fulfill its obligations under any agreement for the purchase and sale of goods, Zefon shall have the right to condition its performance under such agreement upon pre-payment of the full amount due to Zefon for the goods.

3. **PRICE AND TERMS.**

3.1 **Terms, Payment and Pricing.** The price for goods purchased by the Customer shall be the current published price as stated on Zefon's website at the time of purchase unless one of the following conditions exist (a) The customer has a current, valid quotation from Zefon that is in effect at the time of order placement, (b) The customer is a current distributor or reseller for Zefon, has been issued a distributor or reseller price list, and such price list is still current at the time of order placement, (c) The customer has a written contract outlining pricing that has been executed between Zefon and the customer and is in effect on the date of order placement, or (d) The customer is an OEM and has been issued a special price list from Zefon for their products that is in effect on the date of order placement. Zefon accepts checks, wire transfers, credit cards (MasterCard, Visa or American Express), and open account invoicing (upon completion and execution of a credit agreement satisfactory to Zefon). Unless prepaid or otherwise stated in the Order, payment for goods is due when the goods are tendered to the delivery carrier. Customers on open account invoicing shall have a payment term of net thirty (30) days after the date of Zefon's invoice. Customer shall make all payments irrespective of whether Customer has made or may make any inspection of the goods. Zefon may cancel, hold, or reschedule deliveries of products if Customer fails to make any payment when due. Past due payments will bear interest from the due date at the lesser of one and one-half percent (1 ½%) per month and the highest rate permitted by law. Zefon's rights under this section shall be in addition to all other rights and remedies available to Zefon under these terms, at law, or in equity. Customer shall be liable for all expenses attendant to collection of past due amounts, including attorney's fees.

3.2 **Custom Orders.** Price quotations provided by Zefon for custom orders are based on the completeness and accuracy of the information and/or specifications provided by Customer. All price quotations are valid for the time specified in the price quotation. If the specifications for goods provided by Customer (the "Specifications") are incorrect, incomplete, or differ in any manner from Specifications subsequently provided, Zefon may re-price the goods based on the correct Specifications and Zefon shall not be bound by any prior price quotation based on incorrect, incomplete, or differing information and/or Specifications.

3.3 **Taxes.** Any and all taxes levied by any governmental authority in connection with the sale of the goods or performance of the services shall be promptly paid by Customer. Customer will reimburse Zefon for any taxes paid by Zefon on behalf of Customer. If Customer is exempt from taxation, Customer shall provide Zefon with a tax exemption certificate issued by, and acceptable to, the governmental authority granting Customer the tax-exempt status.

3.4 **Delivery of Goods.** Unless otherwise stated in the Order (a) all domestic deliveries of goods shall be FOB point of origin and risk of loss of such goods and title to such goods shall transfer to Customer upon delivery to the freight carrier; and (b) all international deliveries shall be made Ex Works Zefon's factory in Ocala, Florida and, unless otherwise stated in the Order, Zefon shall present the goods to the carrier at Zefon's factory, and risk of loss of such goods and title to such goods shall transfer to Customer upon presentation. Customer shall pay, or reimburse Zefon for, all amounts due for import and export licenses and permits, customs charges and duties, penalties, freight, insurance and other shipping expenses. Unless otherwise instructed, selection of carrier and routing of all shipments shall be at Zefon's discretion. Shipment dates for export sales are approximate and are subject to receipt of all necessary Customer information, and all necessary licenses, permits and other documents.

4. **ACCEPTANCE OF GOODS.** Customer shall inspect all goods immediately upon receipt. If the Customer fails to deliver to Zefon within ten (10) calendar days from the date of delivery of the goods a written claim alleging the goods do not conform to the Specifications, then Customer will be deemed to have irrevocably accepted the goods. By such acceptance, Customer will be deemed to have acknowledged Zefon's performance has fully satisfied all terms and conditions of these Terms including, without limitation, the manufacture, assembly and sale of the goods in accordance with the Specifications.

5. **LIMITED WARRANTY.**

5.1 **Limited Warranty for Consumables.** Unless otherwise stated in the Order, Zefon warrants that goods that constitute limited use, disposal items designed for a maximum number of uses ("Consumables") will free of material defects in manufacture under normal use for their intended purpose. This warranty lasts from the time Zefon ships the Consumable(s) until the earlier of: (1) the Consumable's expiration or "use by" date, or (2) the time at which the Consumable has been used for its maximum number of uses. If the expiration date, the maximum number of uses, or a different warranty period is not specified in the Order or otherwise, the warranty will last for twelve (12) months from the date Zefon ships the Consumable(s).

5.2 **Limited Warranty for Zefon Equipment.** Unless otherwise stated in the Order, Zefon warrants that goods that constitute capital equipment designed for sustained use ("Equipment") will free of material defects in manufacture under normal use for their intended purpose for the period specified in Zefon's owner's manual or brochure for such Equipment.

5.3 **Third Party Products.** Zefon does not support or make any warranties about products manufactured or supplied by third parties that Customer purchases through any of Zefon's sales channels. Customer must look directly to the relevant third-party manufacturer for product support, warranties, and to make warranty claims.

5.4 **Limitations; Disclaimer.** Zefon grants the limited warranties above solely to Customer and for the period stated. **IN THE EVENT OF A BREACH OF THE LIMITED WARRANTY, ZEFON'S ENTIRE OBLIGATION AND LIABILITY TO CUSTOMER, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY SHALL BE AS FOLLOWS:** Zefon will, at its option, repair or replace any such defective goods, or refund to Customer the purchase price paid for such defective goods. The foregoing Limited Warranty is expressly conditioned upon the following: (a) Customer giving notice of the claim within the one year period of the Limited Warranty; (b) the goods were properly installed and/or used; (c) the goods have not been abused, misused, or modified and were operated in accordance with Zefon's instructions and operator/maintenance manuals. **ZEFON EXPRESSLY DISCLAIMS AND THE LIMITED WARRANTY DOES NOT INCLUDE OR COVER ANY OTHER COSTS, EXPENSES OR INJURIES OR DAMAGES TO PERSONS (INCLUDING DEATH) OR TO PROPERTY OR THINGS INCLUDING BUT NOT LIMITED TO THOSE ARISING FROM LOSS OF PROFITS, PRODUCTION, INCREASED COST OF OPERATION, OR SPOILAGE OF MATERIAL ARISING IN CONNECTION WITH THE SALE OR USE OF, OR INABILITY TO USE ANY GOODS. OTHER THAN THE LIMITED**

WARRANTY EXPRESSLY SET FORTH IN THIS SECTION 6, ZEFON DOES NOT MAKE ANY EXPRESS OR IMPLIED WARRANTIES, CONDITIONS, OR REPRESENTATIONS TO BUYER OR ANY OTHER PARTY WITH RESPECT TO ANY GOODS PROVIDED HEREUNDER OR OTHERWISE REGARDING THESE TERMS, WHETHER ORAL OR WRITTEN, EXPRESS, IMPLIED OR STATUTORY. WITHOUT LIMITING THE FOREGOING, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, THE IMPLIED WARRANTY AGAINST INFRINGEMENT, AND THE IMPLIED WARRANTY OR CONDITION OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED AND DISCLAIMED.

6. **INDEMNITY.** Customer shall defend, hold harmless, indemnify and fully release Zefon and any of its employees, officers, directors, agents, representatives and contractors (collectively, Zefon's Indemnified Persons) from any and all damages, loss, claim, expense, demand or cause of action of any kind or character, whether in contribution, indemnity, subrogation or any other theory, by reason of assertion of any actual or alleged claim or claims against Zefon's Indemnified Persons in connection with these Terms or the Goods delivered in connection herewith. Customer shall reimburse Zefon for any loss, liability, claim, damage, expense (including costs of investigation and defense and reasonable attorney's fees and expenses) or diminution in value arising from or in connection with Customer's failure to perform under these Terms.

7. **LIMITATION OF LIABILITY AND DAMAGES.** CUSTOMER AGREES THAT IN NO EVENT SHALL ZEFON OR ITS OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS, OR REPRESENTATIVES BE LIABLE TO CUSTOMER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OR LOSS OF GOODWILL IN ANY WAY RELATING TO THE GOODS PROVIDED UNDER THESE TERMS, OR THE ORDER, OR RESULTING FROM THE USE OF OR INABILITY TO USE THE GOODS OR THE PERFORMANCE OR NON-PERFORMANCE OF ANY OBLIGATION UNDER THESE TERMS. IN NO EVENT SHALL ZEFON BE LIABLE TO CUSTOMER FOR A MONETARY AMOUNT GREATER THAN THE TOTAL AMOUNT ACTUALLY PAID BY CUSTOMER TO ZEFON FOR THE GOODS GIVING RISE TO SUCH LIABILITY. THIS SECTION AND THE SOLE AND EXCLUSIVE REMEDIES SET FORTH IN SECTION 6 ABOVE SHALL APPLY EVEN IF ZEFON HAS BEEN NOTIFIED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OCCURRING, WHETHER SUCH LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE, AND EVEN IF ANY REMEDY STATED HEREIN FAILS OF ITS ESSENTIAL PURPOSE.

8. **EXPORT RESTRICTIONS.**

8.1 **Export Controls.** Customer acknowledges that each good, including technical information Zefon supplies and including information contained in product documents, is subject to U.S. government export controls. The export controls may include, among others, those of the Export Administration Regulations of the U.S. Department of Commerce (the "EAR"), which may restrict or require licenses for the export of goods from the United States and their re-export from other countries.

8.2 **Compliance Requirements.** Customer must comply with the EAR and all other applicable laws, regulations, laws, treaties, and agreements relating to the export, re-export, and import of any goods. Customer must not, directly or indirectly, without first obtaining the required license to do so from the appropriate U.S. government agency; (a) export, re-export, distribute or supply any goods to any restricted or embargoed country or to (i) a person or entity whose privilege to participate in exports has been denied or restricted by the U.S. government; or (ii) any person or entity who is involved in improper development or use of nuclear weapons or of chemicals/biological weapons, or missiles, or in terrorist activities. Customer will, if Zefon requests, provide information about the end user and end use of any goods Customer exports or plans to export.

8.3 **Audit Cooperation.** Customer will cooperate fully with Zefon in any official or unofficial audit or inspection related to applicable

export or import control laws or regulations, and will, without limiting Customer's other indemnification obligations under these Terms, indemnify and hold harmless Zefon and, its employees, officers, agents, representatives, officers and directors and will reimburse such parties fees, costs and expenses incurred by Zefon as a result of Customer's breach of any of the terms of this Article 8.

9. **ATTORNEY'S FEES.** In the event of any legal proceeding, arbitration, and/or other proceedings arising out of or relating to Customer's breach of these Terms or the purchase and sale of goods from Zefon, Zefon shall be entitled to recover its reasonable attorney's fees, costs, and expenses from Customer.

10. **CHOICE OF LAW AND VENUE.** These Terms and all purchases and sales of goods thereunder shall be governed by the laws of the State of Florida, and any action arising out of, or brought in connection with this agreement, shall be instituted exclusively in a court of appropriate and competent jurisdiction located within Ocala, Florida to the exclusion of any other court in any other jurisdiction, which court is stipulated hereby to be the proper venue and each party consents to the personal jurisdiction of such courts.

11. **BINDING EFFECT AND WAIVER.** These Terms shall be binding upon the parties hereto and their affiliates, successors and assigns. The waiver of any breach of these Terms or the failure of a party to exercise any right under these Terms shall in no event constitute a waiver as to any other breach, whether similar or dissimilar in nature, or prevent the exercise of any right under these Terms.

12. **ENTIRE AGREEMENT; PARTIAL INVALIDITY.** These Terms, together with the Order incorporated herein by reference, constitute a legally binding agreement between Customer and Seller and are a complete and exclusive statement of the agreement which alone, fully and completely expresses the entire agreement between them and merges herein and supersedes all other agreements, discussions, understandings, proposals and all other communications between the parties, whether oral or written, relating to the subject matter of these Terms. If any part, term, or provision of these Terms shall be held illegal, unenforceable, or in conflict with any law of a federal, state, or local government having jurisdiction over these Terms, the validity of the remaining portion or portions shall not be affected thereby. Such illegal or unenforceable term shall be replaced with a term as similar in substance to the illegal or unenforceable term as to make such term not illegal or unenforceable.

13. **FORCE MAJEURE.** No party shall be responsible to any other party for any delay in or failure of performance of its obligations under these Terms to the extent attributable to causes beyond its reasonable control, including but not limited to acts of God, fires, floods, strikes, acts of any government or delays by carriers, provided that the party affected thereby gives the other parties prompt notice of the occurrence of any event which is likely to cause any such delay or failure and of its best estimate of the length of any delay and the possibility that it will be unable to resume performance.

14. **ASSIGNMENT.** Customer may not assign any right or delegate any duty under these Terms without the prior written consent of Zefon.