

THINGAP TERMS & CONDITIONS OF SALE

- 1. AGREEMENT.** These Terms & Conditions of Sale (collectively, "Terms"), and the ThinGap quotation and/or acceptance to which these Terms are attached, (collectively, "Agreement") contain the complete and final agreement between ThinGap, LLC. ("ThinGap") and you ("Customer"), and supersede all prior written or oral proposals, understandings, correspondence, and negotiations, and all past dealing, industry custom or trade usage, with respect to the subject matter hereof, except that any existing nondisclosure agreements between the parties ("NDA") shall remain in full force and effect. Modifications to this Agreement must be in writing, signed by each party's authorized representative. ThinGap will not be bound by any terms of a Customer order except as set forth herein. No form of acceptance except ThinGap's written acceptance sent to Customer, or ThinGap's commencement of performance, shall be valid acceptance of Customer's order. Any such acceptance is expressly conditioned on assent to the terms of this Agreement, exclusive of all other terms. If tender of these terms is deemed an offer, acceptance is expressly limited to these terms. Customer shall be deemed to have assented to the terms hereof, whether or not previously received, upon accepting delivery of any Product provided by ThinGap. "Product(s)" means any products (including spares, components, and parts) and, where appropriate in the context, services, identified on any of ThinGap's valid proposals or quotations, current price lists, or any of ThinGap's invoices.
- 2. ORDERS.** Unless ThinGap otherwise agrees in writing, Customer shall order Products by submitting a written purchase order ("PO") to ThinGap as set forth in the ThinGap quotation. Any contingencies contained on such order are not binding upon ThinGap. All orders are subject to acceptance by ThinGap.
- 3. PRICE/PAYMENT TERMS.** Prices for Products (a) shall be valid for 30 days from the quotation date, unless otherwise stated thereon, and (b) do not include (i) taxes and other charges imposed by governmental or regulatory authorities in connection with the sale, use, or delivery of Product and the provision of any services, and (ii) shipping and handling charges, including insurance, brokerage fees, special packaging, and transportation (collectively, "Shipping Charges"). Customer is responsible for all Taxes (except ThinGap income taxes) and Shipping Charges. All Product pricing, quotations and price lists are confidential and proprietary to ThinGap, and Customer shall not disclose the foregoing to any third party. If payment terms are approved, all payments must be made in U.S. dollars and received by ThinGap within 30 days of the invoice date. Payments from Customers may be made by wire transfer to ThinGap's designated account or via check or credit card. If Customer does not pay the total invoice amount when due, Customer will pay ThinGap a fee of 1-1/2% per month (or, the maximum rate allowable by law, if lower) on the unpaid balance. If Customer is delinquent in the payment of any invoice or is otherwise in breach of this Agreement, ThinGap has the right, without liability, to withhold additional shipments of Product or Services to Customer, withdraw acceptance of POs, and/or impose additional credit terms. Customer hereby grants ThinGap a security interest in the Products to secure payment therefor. Upon ThinGap's request, Customer will execute all financing statements and related documents as reasonably necessary to perfect such interest. Customer shall have no right of set-off. Customer will pay all costs and expenses (including reasonable attorneys' fees) incurred by ThinGap in enforcing its rights under this Agreement. Any credit or payment terms that vary from this Section 3 are subject to ThinGap's prior written approval.
- 4. SHIPMENT/DELIVERY.** All Products are shipped FOB Origin, i.e. shipping costs and risk of loss are Customer's responsibility from the Origin point. Performance and shipping dates provided by ThinGap are approximate only. All claims for shortage of Products ordered, or for incorrect charges, must be provided to ThinGap in writing within 10 days after delivery of the corresponding Product shipment. ThinGap may make partial Product shipments and invoice them separately, provided ThinGap provides Customer with written notice thereof. Customer must designate a carrier in the PO, specify the amount of shipping insurance required for each shipment, and provide ThinGap with the Customer shipping account number. ThinGap shall not be responsible for any damages, penalty or delay in connection with delivery or for failure to give notice of delivery. The carrier shall not be deemed an agent of ThinGap.
- 5. SUPPLY.** Customer may not cancel, terminate, suspend performance of, reschedule delivery of, or modify any PO, in whole or in part, without ThinGap's prior written consent and, if such consent is given, subject to compensation to ThinGap for loss or damage arising therefrom, including purchase price of the Product, lost profits, and manufacturing, storage, inventory, shipping, overhead, administrative and other costs incurred in connection therewith. ThinGap may (i) at any time and without prior approval from or notice to Customer, make or require changes to the Product which do not adversely affect the Product's form, fit or function when required for safety, regulatory or legal purposes, and (ii) upon at least 30 days' written notice to Customer, modify or require a change to a Product or discontinue its manufacture, support or sale.
- 6. WARRANTY.** ThinGap warrants that the Product made by ThinGap and sold hereunder will function substantially in accordance with the description set out in ThinGap's specifications therefor, and will be free from any material defects in workmanship or material for 12 months after original shipment date under normal use and service in accordance with ThinGap's instructions. Notwithstanding anything in this Agreement or otherwise, ThinGap's sole liability to Customer, and Customer's sole remedy, with respect to any Product that fails to comply with this warranty is to, at ThinGap's option, repair, provide a replacement Product, or issue a credit (less a reasonable amount for depreciation) for Products returned under ThinGap's RMA procedure and which ThinGap confirms are defective. Any Products that are experimental, prototypes, partial, or Products used for field or lab trials, demos or evaluations, are excluded from all warranties. All third party Products provided by ThinGap bear only the original supplier or manufacturer warranty applicable to Customer. ThinGap will only accept for repair, replacement or credit under warranty third party Products only if expressly authorized to do so by such third party. Any Product repaired or replaced under warranty is only warranted for the remainder of the original warranty. The warranty does not cover any Product (or portion thereof) that has been damaged, disassembled, misused, modified, used other than in accordance with ThinGap's instructions, used in applications exceeding specifications or ratings, neglected, damaged in shipment, improperly installed, serviced by anyone other than an approved ThinGap representative, abused or used in hazardous activity, or for which any mandatory modification has not been made. All warranty claims must be submitted directly by Customer in writing to ThinGap during the warranty period and received within 10 days after the alleged defect is discovered and in accordance with ThinGap's RMA process. Any repairs that fall outside of the warranty will be paid for by Customer at ThinGap's then current rates, however ThinGap has no obligation to make any such repairs. If a valid support contract is in effect between the parties, then the terms of such contract may apply.
- 7. RMA.** Prior to returning any Product (or any portion thereof) to ThinGap for any reason, Customer must comply with ThinGap's return material authorization ("RMA") process as follows: (A) Customer shall request in writing and obtain an RMA number from ThinGap. In such request, Customer shall notify ThinGap of the serial number of the allegedly defective Product (or portion thereof) and provide a detailed description of the claimed defects and any analysis of such defects performed by Customer; (B) within 2 weeks after receipt of such RMA number, Customer shall return such Product to ThinGap properly packaged with Shipping Charges prepaid and include the RMA number and an itemized statement of claimed defects therewith; (C) such returned Product, RMA number, and statement must comply in all respects with the RMA request therefor, and (D) Customer shall provide ThinGap with all reasonable assistance and additional data as needed for ThinGap to confirm and repair such claimed defects. Any Product (or

portion thereof) returned without a valid RMA number may be rejected and returned to Customer at Customer's expense. All returns of Product (or portions thereof) and requests for RMA numbers must be made directly by Customer to ThinGap. If Customer repeatedly returns Products without confirmable defect or with a description that is inconsistent with the actual defect, ThinGap has the right, in addition to refusing RMA numbers, to require Customer to pay ThinGap's standard examination fee. Only Products returned in compliance with ThinGap's RMA process will be accepted.

8. INTELLECTUAL PROPERTY. All right, title, and interest in and to any and all inventions, discoveries, methods, techniques, processes, tools, designs, concepts, ideas, and other apparatus programs and related documentation, other works of authorship fixed in any tangible medium of expression, or other forms of intellectual property and any and all improvements thereto, whether or not subject to statutory protection, that are made, created, developed, discovered, written, used, conceived or reduced to practice by ThinGap solely, jointly or on its behalf, or in the course of, arising out of, or as a result of work performed under a PO, this Agreement or otherwise, and any related testing, tooling, set-up, processes, fitting-up and preparation, whether or not invoiced, and any and all Specifications shall be ThinGap's sole and exclusive property. Customer hereby assigns any and all right it may have in the foregoing to ThinGap. Customer further agrees to do all things reasonably necessary to evidence and perfect ThinGap's interest therein, as reasonably requested by ThinGap. Customer agrees not to reverse engineer or disassemble all or any portion of any Product, nor permit, cause, or assist others to do so. If any Product is found, or ThinGap reasonably determines may be found, to be infringing any intellectual property or proprietary right, ThinGap has the right to require Customer to return the Product to ThinGap, upon notice to Customer, in which case ThinGap may provide Customer, at its option, a credit or refund of the purchase price, less a reasonable amount for depreciation. The foregoing sets forth ThinGap's sole liability with respect to any infringement of any intellectual property or proprietary right.

9. COMPLIANCE WITH LAWS. Customer warrants that it has and will comply with all applicable federal, state and local laws, ordinances and regulations applicable to this Agreement and indemnify ThinGap for any and all liability and damages arising out of a failure to so comply. Customer shall obtain all licenses, permits and approvals required by any government and shall comply with all applicable laws, rules, policies and procedures of the applicable government and other competent authorities. Customer will indemnify and hold ThinGap, its subsidiaries, employees, officers, directors and agents harmless for any violation or alleged violation by Customer of such laws, rules, policies or procedures. Customer agrees to comply with the U.S. Foreign Corrupt Practices Act and all applicable export laws, restrictions and regulations (including any amendments thereof) of any U.S. or foreign agency or authority and not to transmit, export or re-export, directly or indirectly, or allow the transmission, export or re-export of any Product or related technology or information in violation of any such laws, restrictions or regulations, including to Cuba, Iran, Iraq, Libya, North Korea or any other country subject to U.S. trade embargoes, or to any party on the U.S. Export Administration Table of Denial Orders or the U.S. Department of Treasury List of Specially Designated Nations. Customer also certifies that none of the products or technical data supplied by ThinGap under this Agreement will be sold or otherwise transferred to, or made available for use by or for, any entity that is engaged in the design, development, production or use of nuclear, biological or chemical weapons or missile technology.

10. DISCLAIMER. THINGAP AND ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, AGENTS AND LICENSORS MAKE NO WARRANTY ABOUT ANY PRODUCTS OR SERVICES PROVIDED BY VENDORS OR WITH RESPECT TO ANY EQUIPMENT, TOOLS OR MATERIALS SUGGESTED BY THINGAP. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY THINGAP, ITS LICENSORS, DEALERS, DISTRIBUTORS, AGENTS, CONSULTANTS, CONTRACTORS, REPRESENTATIVES OR EMPLOYEES SHALL IN ANY WAY INCREASE THE SCOPE OF THE WARRANTY SET FORTH IN THIS AGREEMENT.

11. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING ELSE, THINGAP WILL NOT BE LIABLE TO CUSTOMER OR ANYONE UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY (A) INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, (B) LOST PROFITS OR, LOST BUSINESS, (C) PROPERTY DAMAGE, OR (D) COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; EVEN IF THE REMEDIES PROVIDED FOR IN THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THINGAP'S TOTAL LIABILITY ARISING OUT OF THIS AGREEMENT SHALL BE LIMITED TO THE NET AMOUNTS PAID BY CUSTOMER TO THINGAP FOR THE PRODUCTS DURING THE ONE YEAR PERIOD PRIOR TO THE DATE THE CAUSE OF ACTION AROSE, OR \$500,000, WHICHEVER IS LESS. THIS SECTION DOES NOT LIMIT LIABILITY FOR BODILY INJURY OF A PERSON. CUSTOMER AGREES THAT IT WILL NOT BRING ANY ACTION ARISING OUT OF THIS AGREEMENT MORE THAN ONE YEAR AFTER THE CAUSE OF ACTION ARISES.

12. GENERAL. If the PO is given pursuant to an existing written, negotiated agreement between the parties, it is subject to the terms of such agreement. If there is any conflict with this Agreement, the terms of such agreement shall control, but only to the extent of such conflict. If there is any conflict between this Agreement and the End User License or NDA, the more restrictive terms shall control. Customer shall not assign or transfer any of its rights or obligations hereunder without ThinGap's prior written consent. Any attempted assignment or transfer in violation of this provision shall be void. ThinGap shall have the right to assign this Agreement upon written notice to Customer. This Agreement shall be binding on, inure to the benefit of, and be enforceable by the parties and their respective successors -in-interest and valid assigns. Except as otherwise expressly provided herein, any provision of this Agreement may be waived only with both parties' written consent. Failure of a party to enforce its rights under this Agreement at any time shall not be construed as a waiver of such rights. This Agreement shall be interpreted in accordance with the UCC (as adopted by California) and California and U.S. law, without regard to the conflicts of laws/provisions thereof and without regard to the United Nations Convention on Contracts for the International Sale of Goods. The sole jurisdiction and venue for actions relating to this Agreement shall be the state and federal courts having jurisdiction in Ventura County, California, and the parties expressly consent to their jurisdiction. In any action to enforce rights hereunder, the prevailing party shall be entitled to recover reasonable costs and attorneys' fees. If any provision hereof is held to be illegal or unenforceable, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain enforceable. Except as otherwise expressly set forth herein, the rights and remedies set forth herein are not exclusive, and the exercise thereof shall not constitute an election thereof. Each party is an independent contractor in the performance of this Agreement and is solely responsible for all of its employees, contractors and agents and its labor costs and expenses arising in connection therewith. Neither party has the right to make any statement or commitments of any kind, or to take any action, which shall be binding on the other, without the other's prior written consent, except as set forth in Section 4. Any legal notice made to a party under this Agreement shall be deemed sufficiently given on the date of delivery if delivered in person or by commercial courier (with tracking capabilities and costs prepaid), or the date of transmission if sent via facsimile (with confirmation of transmission) to, in the case of Customer, the address set forth in the PO or other address given by Customer pursuant to this notice provision, or in the case of ThinGap, to ThinGap, LLC., 4035 Via Pescador, Camarillo, CA, USA.