

## OEM Terms and Conditions Of Sale North America and Latin America

Unless Zebra Technologies International, LLC or any of its Affiliates (“Zebra”) otherwise agrees in writing, the following terms and conditions (the “OEM Terms and Conditions of Sale”) shall be applicable to all quotations, agreements, purchase orders and sales of all Products from Zebra to OEM Customer. Zebra hereby objects to any terms proposed by OEM Customer in an Order, or in response to Zebra’s acknowledgment of an Order, which add to, vary from, or conflict with these OEM Terms and Conditions of Sale. Any such proposed terms shall not operate as a rejection of these OEM Terms and Conditions of Sale but are deemed a material alteration thereof, and acceptance of all Orders by Zebra shall be deemed without such additional, different, or conflicting terms. Neither Zebra’s commencement of performance nor shipment of Products shall be deemed or construed to be acceptance of any additional or inconsistent terms and conditions. Unless otherwise noted herein, all terms not herein defined shall have the meanings ascribed to them in the Zebra Original Equipment Manufacturer Purchase Agreement and the Schedules and Addendum/Addenda thereto (collectively, the “Agreement”) that OEM Customer has agreed to. Except as expressly set forth herein, the terms and conditions of the Agreement shall remain in full force and effect.

### **DEFINITIONS:**

“Configured Products” shall mean Products arranged, set up and prepared to fit the specific needs of OEM Customer, that are not ordinarily sold by Zebra in such modified form.

“Custom Products” shall mean Products modified to conform with a specific requirement(s) of OEM Customer, that are not ordinarily sold by Zebra in such modified form.

“Order” shall mean a purchase order submitted by OEM Customer to Zebra in accordance with Section 2.0 of these OEM Terms and Conditions of Sale.

“Products” shall mean the Products listed in the Agreement and shall include Configured Products and Custom Products.

1.0 **QUOTATIONS.** Unless otherwise stated in writing, all price quotations by Zebra expire after the time period specifically listed on the quote, or if no such time period is specified, thirty (30) calendar days after the date of issuance.

### 2.0 **ORDER AND ORDER PROCESSING.**

2.1. An Order must specify OEM Customer’s legal name, street address and telephone number, purchase order number, bill to information, ship to information (cannot be a PO Box), OEM Customer requested delivery date, complete delivery address, complete Zebra part number and quantity, and OEM Customer pricing for each part number, and shall be subject to acceptance by Zebra. At Zebra’s sole and absolute discretion, an Order received without this information may be returned to OEM Customer for completion or fulfilled.

2.2. Any electronically submitted Order or other request for Products submitted to Zebra shall be binding on OEM Customer if it shows that it originated at OEM Customer’s business facility or came from any OEM Customer employee or

OEM Customer Subcontract Manufacturer. Zebra will acknowledge receipt of OEM Customer's Order and advise OEM Customer of Zebra's projected shipment schedule. Zebra's projected shipment schedule shall be conclusively deemed accepted by OEM Customer unless OEM Customer notifies Zebra of its objection thereto in writing by the earlier of: (i) five (5) business days after the date of Zebra's acknowledgment of receipt of OEM Customer's Order; and (ii) the shipment date. Notwithstanding express designations as "proprietary" or "confidential" and notwithstanding anything in the Agreement to the contrary, Orders or any other related documentation and the information contained therein shall not constitute Confidential Information of OEM Customer.

2.3. Zebra will attempt to ship the exact quantity of Product ordered, however, all Orders for custom media/ribbon are subject to a ten percent (10%) over or under run. Overruns will be in full-length rolls. Zebra may invoice OEM Customer only for the actual quantity shipped by Zebra to OEM Customer.

2.4. No Order shall be binding on Zebra unless Zebra expressly accepts such Order.

2.5. Upon the occurrence of a termination described in Section 28.0 of the Agreement, Zebra may, in its sole and absolute discretion, cancel any Orders that have been accepted but that have not been shipped by the time such termination occurs.

2.6. For Orders under which deliveries are to be made in installments, Zebra's obligation to execute the Order or any part thereof shall automatically cease upon the expiration or termination of the Agreement.

3.0 **DELAYED ORDERS.** Any request for a delay in the delivery of Products or the commencement of services must be in writing and shall be effective only upon receipt by Zebra. OEM Customer shall not request Zebra to delay a delivery of Products or services less than thirty (30) days prior to the scheduled shipment date of the Products or less than fifteen (15) days prior to the commencement of the services. OEM Customer shall not postpone a scheduled shipment of Products or commencement of services to a date more than three (3) months from the originally scheduled shipment or commencement date, and any attempt to do so shall be deemed a cancellation of the Order pertaining to such shipment of Products or commencement of services and Zebra shall be entitled to pursue all legal remedies including, without limitation, lost profits. OEM Customer hereby acknowledges and agrees that the measure of Zebra's damages for OEM Customer's non-acceptance or repudiation as set forth in Section 2-708(1) of the Uniform Commercial Code (however numbered in the applicable state statute) is inadequate to put Zebra in as good a position as performance would have done and that, therefore, Zebra's remedy for an Order deemed to have been canceled under this Section 3.0 (Delayed Orders) shall include, without limitation, the profit Zebra would have made had it actually delivered the Products to or performed the services for OEM Customer. Orders accepted by Zebra may not be canceled within thirty (30) days of the scheduled delivery date. Orders for Custom Products may not be canceled.

#### 4.0 **CUSTOM PRODUCTS.**

OEM Customer hereby grants Zebra and its Affiliates an irrevocable, worldwide, royalty-free, nonexclusive license, or in the case of OEM Customer's customer, a sublicense, to: (i) manufacture Custom Products with OEM Customer's or its customer's custom specifications set forth in any applicable statement(s) of work; (ii) use data, specifications, instructions, intellectual property, and other proprietary information provided to Zebra by OEM Customer, and OEM Customer's or its customer's other intellectual property that is necessary to manufacture and ship Custom Products with OEM Customer's or its customer's custom specifications; and (iii) have third party contractors perform the foregoing on Zebra's behalf. Products made by Zebra pursuant to this grant, or pursuant to any other request by OEM Customer for Zebra to modify, customize, or otherwise alter Products, including, without limitation, Custom Products and Configured Products, shall be

considered “Excluded Products” under Section 9.0 below. Zebra may share these OEM Terms and Conditions of Sale with any third party to demonstrate its rights to so manufacture and ship Custom Products with OEM Customer’s or its customers’ custom specifications and using OEM Customer’s or its customers’ intellectual property. Except as expressly provided herein or in the Agreement, no rights or licenses are granted by OEM Customer or its customer(s) to Zebra to use any of OEM Customer’s or its customers’ trademarks, trade names, or service marks. Any and all customization and design work related to Custom Products, and all Zebra-produced, Product-related methods, processes, know-how, specifications, documentation and materials, and all improvements, modifications and derivatives of the foregoing, whether in existence on the date hereof or developed thereafter, and all intellectual property rights in the foregoing shall be and remain the exclusive property of Zebra, and nothing herein or otherwise shall limit Zebra’s right and ability to use or exploit such property. OEM Customer shall promptly execute and cause each applicable employee to execute all documents that may be necessary to establish Zebra’s ownership of the foregoing, and shall require each employee who may qualify as an inventor, as determined by Zebra, to promptly sign all papers requested by Zebra for purposes of filing any patent application arising out of or related to the Custom Products.

5.0 **TERMS OF PAYMENT.** Payment terms for the purchase of Products are net thirty (30) days from date of shipment, subject to credit approval. Each shipment shall be invoiced and paid for when due, without regard to other scheduled deliveries. Zebra reserves the right, at any time, to revoke any credit extended to OEM Customer if any payment is in arrears for more than thirty (30) days after notice to OEM Customer or OEM Customer's credit does not warrant further extension of credit.

6.0 **CREDIT LIMITS.** Credit limit decisions are solely at the discretion of Zebra. Without prejudice to the foregoing, deliveries shall at all times be subject to the approval by Zebra of OEM Customer’s credit. Zebra reserves the right, even after partial performance or partial payment on OEM Customer’s account, to require from OEM Customer satisfactory security for due performance of its obligations. Refusal to furnish such security shall entitle Zebra to defer any further deliveries until such security is furnished or to cancel OEM Customer’s account, or so much of it as remains unperformed, without prejudice to any rights which Zebra may have against OEM Customer in respect of breach of contract or otherwise.

7.0 **DELIVERY TERMS AND TRANSFER OF TITLE.** The delivery terms for all shipments are FCA Zebra’s applicable manufacturing location or, at Zebra’s option, Zebra’s applicable distribution center (Incoterms 2010). Title (including risk of loss) shall pass from Zebra to OEM Customer upon delivery to OEM Customer’s common carrier or OEM Customer’s representative at Zebra’s applicable manufacturing location or, at Zebra’s option, Zebra’s applicable distribution center. Title to all software incorporated in the Products shall not pass to OEM Customer and shall remain vested with Zebra or its suppliers (as appropriate) and a license to use shall be supplied to OEM Customer. OEM Customer is responsible for obtaining insurance for the Products after transfer of title; all claims with respect to the Products shall be made by OEM Customer directly with its insurance carrier. Absent specific instructions, Zebra will select for OEM Customer the common carrier for shipment, but in doing so, shall not assume any liability for the shipment, nor shall the common carrier in any way be construed to be Zebra’s agent. Zebra shall not be liable for any damages or penalties for any delays caused by any such common carrier or any failure of such common carrier to give notice of such delays.

8.0 **TAXES; DUTIES.** The prices do not include any applicable taxes, including, without limitation, VAT taxes, export and import customs duties and tariffs, and sales, use, goods and/or services taxes. The OEM Customer is responsible for payment of applicable taxes, duties and tariffs.

9.0 **INFRINGEMENT INDEMNIFICATION.**

9.1. Zebra shall indemnify OEM Customer by: (i) defending any claim and any lawsuit brought against OEM Customer alleging that any Zebra-branded product ("Zebra Product"), as originally delivered by Zebra to OEM Customer under these OEM Terms and Conditions of Sale, directly infringes a US patent in existence as of the date of delivery of such Zebra Product to OEM Customer ("Infringement Claim"), provided, however, that Zebra is promptly notified in writing by OEM Customer as to any such claim, is given sole authority and control of the defense, and is provided by OEM Customer with all requested information and assistance for resolving or defending the Infringement Claim; and (ii) paying all damages finally awarded against OEM Customer by a court of competent jurisdiction to the extent based upon the Infringement Claim. For non-Zebra-branded products, including, without limitation, any third-party software, Zebra's obligations for an Infringement Claim shall be limited to any indemnities or defense commitments provided by such third-party supplier. If a Zebra Product is subject to an Infringement Claim or, in Zebra's judgment, may become subject to an Infringement Claim, Zebra's obligations under this Section 9.1. (Infringement Indemnification) shall be fulfilled if at any time Zebra, in its sole discretion: (x) obtains a license for OEM Customer to continue to use or to sell the Zebra Product; (y) replaces or modifies the Zebra Product so as to be substantially functionally equivalent but non-infringing; or (z) refunds the purchase price paid to Zebra by OEM Customer for such Product less a reasonable charge for straight line depreciation and/or prior use. Zebra shall have no liability to OEM Customer for any alleged or actual infringement in connection with OEM Customer's ordering, use or transfer of Zebra Products after Zebra has provided notice to OEM Customer to cease any such use or transfer of such Products.

9.2. Zebra shall have no liability to OEM Customer under these OEM Terms and Conditions of Sale: (i) for any damages based upon a per-use royalty or the OEM Customer's revenues, or upon any theory of damages other than a reasonable royalty applied to, or lost profits of the patent owner based on, the purchase price paid by OEM Customer to Zebra for the infringing Zebra Product; or (ii) for any alleged or actual infringement arising out of (a) use of Zebra Products in connection or in combination with equipment or software not provided by Zebra, (b) use of Zebra Products in a manner for which they were not designed, (c) any modification of Zebra Products by anyone other than Zebra, (d) compliance with OEM Customer's designs, specifications, guidelines or instructions, or (e) use of a Product in a patented process (collectively, "Excluded Products"). OEM Customer shall indemnify Zebra and its Affiliates against any claim of infringement against Zebra or its Affiliates arising out of or related to Excluded Products. Zebra shall not be responsible for any compromise or settlement made by OEM Customer without Zebra's prior written consent.

9.3. THIS SECTION 9.0 (Infringement Indemnification) PROVIDES OEM CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES AND ZEBRA'S ENTIRE LIABILITY IN THE EVENT OF AN INFRINGEMENT CLAIM. IN ADDITION, THE RIGHTS AND REMEDIES PROVIDED IN THIS SECTION ARE SUBJECT TO AND LIMITED BY THE RESTRICTIONS SET FORTH IN THE LIMITATION OF LIABILITY SECTION (23.0) OF THE AGREEMENT. IN NO EVENT SHALL ZEBRA BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, COLLATERAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OR LOST PROFITS OF OEM CUSTOMER IN CONNECTION WITH ANY CLAIMS, LOSSES, DAMAGES OR INJURIES UNDER THIS SECTION. In no event shall Zebra's liability under this Section 9.0 exceed the total net sales to OEM Customer of the applicable Product.

10.0 **SECURITY INTEREST.** OEM Customer grants to Zebra a security interest in all Products now existing and hereafter acquired, including all proceeds thereof as defined by the Uniform Commercial Code as adopted in the State of Illinois, United States of America, and in all accounts receivable arising from the resale of the Products by OEM Customer. This grant of security interest is made to secure payment of all debts and liabilities and performance of all obligations of OEM Customer to Zebra, whether such debts, liabilities and obligations are now existing or hereafter arise and whether direct or contingent. OEM Customer agrees to execute all instruments and perform all acts that Zebra may deem necessary for the creation, perfection and protection of such lien and security interest. In the event OEM Customer fails to make any

payment when due for purchases, OEM Customer shall promptly pay all of Zebra's costs of collection, including, without limitation, reasonable attorneys' fees, costs and expenses.

**11.0 ENTIRE AGREEMENT AND ORDER OF PRECEDENCE.**

11.1. These OEM Terms and Conditions of Sale, together with the Agreement, represent the entire agreement of the parties with respect to the subject matter contained herein. Any and all prior discussions or agreements with respect hereto are merged into and superseded by these OEM Terms and Conditions of Sale. None of the terms and conditions herein may be added to, modified, superseded or otherwise altered except by a written instrument that is signed by an authorized representative of Zebra and delivered by Zebra to OEM Customer, and that expressly refers to these OEM Terms and Conditions of Sale and states an intention to modify or amend it. Each shipment of Products from Zebra to OEM Customer shall be deemed to be only upon these OEM Terms and Conditions of Sale except as they may be added to, modified, superseded or otherwise altered as provided herein. Sales of services will be made under a separate Zebra services agreement.

11.2. In the event of any conflicts or ambiguities between the legal documents covering Zebra's direct sale of Products to OEM Customer, the order of precedence shall be as follows: (a) These OEM Terms and Conditions of Sale; (b) Private Label Addendum (if applicable, Schedule C of the Zebra Original Equipment Manufacturer Purchase Agreement); c) the Zebra Original Equipment Manufacturer Purchase Agreement; and (e) the Zebra Standard Terms and Conditions of Sale (NA).

11.3. OEM Customer and Zebra expressly agree that the UN Convention on Contracts for the International Sale of Goods shall not apply to these Terms and Conditions of Sale.

**END OF THE ZEBRA OEM TERMS AND CONDITIONS OF SALE FOR NORTH AMERICA AND LATIN AMERICA.**