

**Sierra-Olympia Technologies, Inc.**

**Terms and Conditions of Commercial Sale**

As used herein, the following terms shall have the meanings specified below:

“Seller” means Sierra-Olympia Technologies, Inc., acting through its duly authorized representative.

“Buyer” means the individual, corporation, partnership, or sole proprietorship acting through its duly authorized agent, procuring or proposing to procure articles under this agreement.

“Sales Order” means the Seller’s acknowledgement to fulfill an order tendered by Buyer.

“Articles” means any items or services the procurement of which is contemplated by this Agreement.

**1. ACCEPTANCE**

a. This Contract shall be binding on Seller only when executed by a duly authorized representative of Seller. Such acceptance is expressly made conditional on assent to the terms contained herein by Buyer, and shall be governed exclusively by the terms herein. It is recognized that the parties hereto may, for their respective convenience, desire to use standardized Purchase Order Forms, Acceptance of Order forms, Acknowledgment forms, and other documents which may contain terms in addition to or at variance with the terms of this Contract. Therefore, it is expressly understood and agreed that such forms may be used but shall not add to or vary the terms of this Contract whether or not this Contract is referenced therein. x

b. The goods sold hereunder shall conform to Seller's standard specifications in existence at the time delivery is made unless otherwise set forth in writing on the face of this order.

c. Upon delivery to Buyers location, inspection and acceptance shall occur within 10 business days of receipt of articles. Acceptance of articles is presumed unless Buyer notifies Seller in writing. Seller will reasonably replace articles not accepted, repair articles, or will accept in return articles in delivery condition and cancel Sales Order without further obligation to Seller or Buyer.

**2. PAYMENTS**

a. Payment for articles delivered hereunder shall be made in U.S. dollars and shall be due upon submission of invoice as with terms as agreed on Sales Order. No discounts or offsets are authorized. Each shipment shall be separately invoiced and paid when due without regard to other shipments. If Buyer does not make payment in accordance with the terms of the payment specified, Seller may, at its option, (a) cancel this Contract or (b) refuse to perform further work under this Contract unless Buyer should immediately pay for all products/services that have been delivered and pay in advance for all products/services to be delivered.

b. If Buyer is outside the United States, Buyer shall provide Seller with an acceptable international irrevocable letter of credit (ILOC) for the Price. The ILOC shall be issued or confirmed by a major U.S. bank, with expiry date no earlier than thirty (30) days after final Delivery. ILOC payments (whole and partial) shall be made upon presentation of Seller's invoice or warehouse receipt.

### 3. INDEMNIFICATION/AUTHORIZATION

- a. Buyer shall indemnify and hold Seller harmless from any and all suits, damages and expenses for the personal injury (including death) or loss or damage to property of Buyer's employees or agents during or in connection with any visit to Seller's plant regarding this contract.
- b. Notwithstanding any other provision of this contract, Buyer shall have no right of access to Seller's plant except as specifically authorized in advance by Seller.

### 4. PACKING AND SHIPPING

Prices are quoted exclusive of shipping charges. Unless otherwise specified, equipment shall be shipped in standard commercial packaging. When special or export packaging is required or requested, the cost of the special packaging will be separately invoiced.

### 5. DELIVERY AND DELAYS

Except as otherwise stated in the Acknowledgement, all items are shipped Ex-Works (INCOTERMS 2010) Seller's plant. Delivery shall occur, risk of loss shall pass and title (to the extent applicable) shall transfer to Buyer upon delivery of items to the Ex-Works point ("Delivery"). All Delivery dates contained in the Acknowledgement are estimates and Seller has no liability for any delay in Delivery.

Force majeure shall apply to delays caused by events outside of The Seller's reasonable control, including but not limited to natural disasters, strikes, government actions, material shortages, and transportation disruptions. In these cases, The Seller shall notify Buyer as soon as is reasonably possible and shall be granted a reasonable extension of time to perform obligations without penalty.

### 6. WARRANTY

- a. Seller warrants that each item furnished under this Contract will, at the time of initial delivery, be free from defects in materials and workmanship. Seller will, at Seller's option, repair or replace any item that does not conform to this warranty, or take back the nonconforming item and refund the monies paid by the Buyer for such item, provided, (1) Seller is notified of the nonconforming item within 10 days after discovery by Buyer that such item is nonconforming, or within 12 months of its initial shipment (unless otherwise specified in section 6b), whichever is earlier and, (2) the nonconforming item is returned to Seller at its factory, transportation prepaid in accordance with Seller's instruction, which shall be promptly given. Transportation charges on items returned to Buyer, shall be at Seller's expense. Product Line Specific Extended Warranty Terms:

Tamarisk: 24 Months

Tenum: 24 Months

Viento: 24 Months

Ventus HD6: Sensor warranty 24 months. Covers material, workmanship, and specification conformance for dewar, cooler, and proxy electronics. All other components include standard 12-month warranty.

- b. The warranty provided herewith shall be void in the event, (1) the item fails, malfunctions or is damaged as a result of improper modifications, handling, installation, removal or repairs thereto by persons other than Seller or Seller's authorized representatives or as a result of improper or insufficient maintenance, or (2) the item is accidentally

damaged, subjected to abuse or improper use; or (3) is altered or damaged such that Seller is unable to verify the defect with its normal test equipment.

c. The goods offered for sale hereunder are not designed, certified or warranted for use in high-risk applications including, but not limited to, the operation of nuclear facilities, aircraft navigation or air traffic control systems, communication systems in which a failure thereof could cause death or serious injury or tangible property damage (e.g., emergency or 911 communication systems), medical systems, life support systems, or potentially life critical uses. Buyer acknowledges and agrees that Seller makes no representations, warranties or assurances that the goods are suitable for such high-risk applications. Buyer is solely responsible for the design and implementation of configurations, systems, and networks suitable for the risk involved in high-risk applications and operating environments.

d. SELLER MAKES NO OTHER WARRANTY OF ANY KIND WITH RESPECT TO THE GOODS OR SERVICES. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED.

## 7. PRODUCT RETURNS

Returns of any type must be approved by Seller in writing and all return documentation must contain Seller's Return Material Authorization ("RMA") identification number. Returned shipments not approved by Seller or not properly identified may be refused by Seller. The request for return must include the serial number and full identification of the products to be returned and a detailed description as to the nature of defect or problem. Proper handling procedures must be used in the packing and shipping of all returned products. Products must be returned in the same or equivalent container in which they were shipped with the RMA Number clearly visible on the package. Buyer retains title to products returned for repair.

## 8. TECHNICAL DATA AND INVENTION

a. All technical and commercial information Seller discloses to Buyer is proprietary to Seller and disclosed to Buyer in confidence for the limited purpose of assisting Buyer in the evaluation and use of the product. Unless otherwise authorized in writing by Seller, Buyer shall not disclose such proprietary information, directly or indirectly, to any other person or use such proprietary information except for the limited purpose provided herein.

b. Unless specifically identified and priced in this contract as a separate item or items to be delivered by Seller (and in that event, except to the extent so identified and priced), the sale of goods hereunder confers on Buyer no right in, license under, access to, or entitlement of any kind to any of Seller's technical data, including but not limited to design, process technology, software and drawings, or to Seller's inventions (whether or not patentable), irrespective of whether any such technical data or invention or any portion thereof arose out of work performed under or in the course of this contract, and irrespective of whether Buyer has paid or is obligated to pay Seller for any part of the design and/or development of the goods.

c. Seller shall not be obliged to safeguard or hold confidential any data, whether technical or otherwise, furnished by Buyer for Seller's performance of this contract unless (and only to the extent that) Buyer and Seller have entered into a separate written confidential agreement.

## 9. PATENT INDEMNITY

a. Seller shall save Buyer harmless from all costs, loss, damage and liability, except consequential damages, which may be incurred on account of the infringement of any United States patent by the product furnished to Buyer under this Contract, and Seller shall, at its own expense, defend all claims, suits or actions alleging such infringement of patents against Buyer, provided Seller is promptly notified of such claims, suits and actions, given all evidence in Buyer's possession, and given reasonable assistance in and sole control of the defense thereof and all negotiations for its settlement or compromise. In the event of such a charge of infringement, Seller's obligation under this Contract shall be fulfilled if Seller: (i) obtains a license for Buyer to continue the use or to sell the infringing product purchased from Seller, or (ii) refunds the purchase price paid to Seller by Buyer for such infringing product and removes such product, or (iii) replaces or modifies the infringing product so as to be substantially equal but non-infringing. Buyer agrees that the foregoing indemnification shall not apply and moreover, shall be extended to Seller for any claim of U.S. patent infringement that may be brought against Seller because of compliance with Buyer's particular design requirements, specifications, or instructions. Buyer grants to Seller the benefit of any license to Buyer under any patent that may be the subject of an infringement allegation hereunder, to the extent permitted by said license.

b. Seller shall have no liability for any costs, loss or damages resulting from: the use of any product furnished hereunder in combination with any other product not supplied by Seller; the willful acts of Buyer; or any settlement or compromise incurred or made by Buyer without Seller's prior written consent. Seller shall not have any liability to Buyer under any provision of this clause if the patent infringement is based upon the use of any software or equipment not furnished by Seller, or if the products are used in a manner for which the products were not designed. The above states the entire liability of Seller with respect to infringement of patents by any programs or by the equipment or products thereof, or by the operation, and is in lieu of all warranties, express, implied or statutory, in regard thereto.

#### 10. LIMITATION OF LIABILITY

IN NO EVENT, REGARDLESS OF CAUSE, SHALL SELLER ASSUME RESPONSIBILITY FOR OR BE LIABLE (A) FOR LIQUIDATED DAMAGES OR PENALTIES, (B) FOR INDEMNIFICATION OF BUYER OR OTHERS FOR COSTS, DAMAGES OR EXPENSES ARISING OUT OF OR RELATED TO THE EQUIPMENT OR SERVICES OF ANY ORDER, OR (C) FOR INCIDENTAL, REMOTE, OR CONSEQUENTIAL DAMAGES UNDER ANY CIRCUMSTANCE INCLUDING ANY LOSS, INJURY, OR OTHER DAMAGES, LOSS OF PROFITS, OR USE OF ARTICLES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SELLER'S MAXIMUM LIABILITY, INCLUDING DIRECT DAMAGES, SHALL NOT EXCEED THE AMOUNT OF THE CONTRACT. THIS LIMITATION OF SELLER'S LIABILITY WILL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE. ANY ACTION AGAINST SELLER MUST BE BROUGHT WITHIN EIGHTEEN (18) MONTHS AFTER THE CAUSE OF ACTION ACCRUES.

#### 11. GOVERNING LAW AND REGULATIONS

The applicable laws governing this Contract shall be in accordance with the laws of the State of Washington and United States Federal Law including its provision of the Uniform Commercial Code (UCC) and in accordance with any required U.S. Government Regulatory Agency regulations concerning the export of products, but specifically excluding the provisions of the 1980 U.N. Convention for the International Sale of Goods.

#### 12. TAXES

All prices are exclusive of all sales, use, and other taxes or charges. Buyer shall pay, or upon receipt of invoice from Seller, shall reimburse Seller for, all such taxes or charges levied or imposed on Buyer, or required to be collected by Seller, resulting from this transaction or any part thereof.

All taxes, levies, customs duties, customs clearance fees, dues, licenses, permits, notifications, fines, deposits, or inspection and any other fiscal charges, present and future, arising out of, in connection with, or related to, the delivery of items or performance of the work under this Contract originating outside the United States will be the responsibility of and the account of Buyer.

If Seller or its subcontractors or the employees of either, are required to pay any such levies and/or fines, penalties, or assessments in the first instance, or as a result of Buyer's failure to comply with any applicable laws or regulations governing the payment of such levies by Buyer, the amount of any payments so made, plus the expense of currency conversion, shall be promptly reimbursed in U.S. Dollars by Buyer upon submission of Seller's invoices thereof.

All payments to be made by Buyer to Seller pursuant to this Contract represent net amounts Seller is entitled to receive and shall not be subject to any deductions for any reason whatsoever. In the event any of said charges become subject to taxes, duties, assessments, or fees of whatever kind or nature levied outside the United States, said payment shall be increased to such an extent as to allow Seller to receive the net amounts due under this Contract.

### 13. EXPORT LAWS

Any articles or technical data supplied by Seller under these Terms and Conditions may be subject to U.S. Government export laws and regulations. Buyer shall not export, re-export, or transfer the Goods or Confidential Information received from Seller without first obtaining the appropriate US Government approvals, if any. Seller will cooperate with Buyer to obtain any export licenses Buyer seeks, but obtaining such licensing shall be the exclusive responsibility of Buyer and Seller makes no representation or warranty regarding the issuance of export licenses for the Goods. Seller shall be excused from performance, and not liable for any penalties, for Seller's failure to deliver items hereunder that result from United States Government denial of approval to export the said equipment to Buyer. Seller shall not be liable for any denial by the United States Government of any request by Buyer to transfer the said equipment to other companies or countries.

### 14. U.S. GOVERNMENT ACQUISITION REGULATIONS

When Buyer is a prime contractor or a subcontractor at a higher tier than Seller for a U.S. Government prime contract, applicable Federal Acquisition Regulations and Defense Federal Acquisition Regulation Supplement clauses (collectively, FAR Clauses) may be incorporated into this Contract only if there are other FAR clauses that make the subject incorporation in this Contract mandatory. Seller expressly rejects the incorporation of any FAR Clauses that do not meet the foregoing condition. In all incorporated FAR Clauses the terms "Government" and "Contractor" shall be revised to identify properly the contracting parties under this Contract and effect the proper intent of the clause. Except with respect to termination for Seller's default, Buyer shall exercise an incorporated FAR Clause against Seller only if, and to the extent that, the subject FAR Clause is exercised against the Buyer by Buyer's customer.

### 15. CANCELLATION

Buyer may only cancel this Contract if Seller consents in writing. Seller may place conditions on consent, including a requirement that Buyer pay a restocking fee of twenty-five per cent (25%) of the contract prices. If Seller permits cancellation of a Contract, Seller may require Buyer to pay: (a) the prices of goods delivered; (b) material and labor costs incurred; (c) engineering services, if any; and (d) any other related costs and expenses, including without limit any that will arise from Seller's cancellation of contracts with Seller's suppliers. Seller may terminate this Contract if Buyer breaches any material term, including without limit Buyer's payment obligations, and fails to cure the breach within

seven (7) calendar days of receipt of Seller's written notice of the breach. Obligations under paragraphs 2, 8, 9, 10, 11, 12, 13, and 14 shall survive cancellation or termination of this Contract.

#### 16. ASSIGNMENT

This Contract may not be voluntarily assigned in whole or in part, by either party without the prior written consent of the other party, except upon the merger, consolidation or other transfer of all or substantially all of the assets, or upon the sale of the business unit to which this agreement pertains of either party. Either party may assign this Contract to the corporation, which controls, is controlled by or is under common control with the assigning party as long as the transferor remains liable hereunder.

#### 17. PRODUCT CHANGES

Seller reserves the right at any time and without notice to Buyer, to make changes in the product(s) which do not adversely affect the form, fit or function of the product(s).

#### 18. SEVERABILITY

If in any jurisdiction, any provision of this Contract or its application to any party or circumstance is restricted, prohibited, or unenforceable, such provisions shall, as to such jurisdiction, be ineffective only to the extent of such restriction, prohibition, or unenforceability without invalidating the remaining provisions hereof and without affecting the validity of enforceability of such provision in any other jurisdiction or its application to other parties or circumstances.

#### 19. ENTIRE AGREEMENT

This Contract embodies the entire agreement between the parties hereto, supersedes all other agreements between the parties in connection with the sale of products described herein, and it cannot be modified, supplemented or rescinded except in writing signed by both parties. Neither party shall be bound by, or liable to the other for, any representation, promise, or inducement.

#### 20. AMENDMENTS AND MODIFICATIONS

Any amendments, modifications, or specific terms that deviate from these standard terms and conditions and are agreed upon between Buyer and Seller shall be documented in writing and included in the Sales Order Acknowledgment. In the event of any conflict or inconsistency between the terms of the Sales Order Acknowledgment and these standard terms and conditions, the terms included in the Sales Order Acknowledgment shall govern and supersede the conflicting terms herein.