



## STRATOLAUNCH STANDARD TERMS AND CONDITIONS

**This Ordering Agreement** (the "Agreement") is entered into as of the last date of signature below ("Effective Date"), by and between Seller and Stratolaunch, LLC., a Delaware corporation ("Buyer" or "Stratolaunch"). Hereinafter, Seller and Stratolaunch may be referred to individually as a "Party" and jointly as the "Parties".

The definitions set forth below shall apply to this Agreement and any terms and conditions referencing these terms are incorporated into these terms. Words importing the singular shall also include the plural and vice versa.

"Agreement" means a paper or electronic document sent by Buyer to Seller, to initiate the order of Deliverables and/or Services, such as an Agreement or other authorization of Order, and including change notices, amendments, supplements or modifications thereto.

"Authorized Procurement Representative" means any individual designated by Stratolaunch as being primarily responsible for interacting with Seller regarding this Agreement and having the authority to contract on Stratolaunch's behalf.

"Background IP" means all IP owned or developed by Buyer or Seller prior to the effective date this Agreement.

"Confidential Information" means any information that is treated as confidential by a party, including, without limitation, trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing. Confidential Information shall not include information that: (a) is already known to the Receiving Party without restriction on use or disclosure prior to receipt of such information from the Disclosing Party; (b) is or becomes generally known by the public other than by breach of this Agreement by, or other wrongful act of, the Receiving Party; (c) is developed by the Receiving Party independently of, and without reference to, any Confidential Information of the Disclosing Party; or (d) is received by the Receiving Party from a third party who is not under any obligation to the Disclosing Party to maintain the confidentiality of such information.

"Customer" means the ultimate beneficiary of the Deliverables and/or Services (i.e. the Buyer's Customer[s]) and includes the purchaser of an end product incorporating the Deliverables and/or Services provided by the Seller under the Order.

"Deliverables" shall mean any services to be performed by Seller for the support and maintenance of Deliverables and/or any components and parts thereof, including parts, materials or finished goods of Seller described in any Purchase Order (defined below) of Buyer to Seller, including all packaging, instructions, software, drawings, data, reports, manuals, tooling, other specified documentation, warnings, warranties and other materials and services normally included with such Deliverables or items that are required to be delivered to Buyer pursuant to, or in connection with, a Purchase Order.

"Delivery Date" means the date of delivery for Deliverables and/or Services as specified in an Order.

"Foreground IP" means IP conceived, developed or first reduced to practice by, for or with Seller either alone or with others in the performance of this Agreement.

"Intellectual Property" ("IP") means inventions, discoveries and improvements; know-how, works of authorship, technical data, drawings, specifications, process information, reports and documented information; and computer software. IP includes all worldwide common law and statutory rights to the foregoing, including but not limited to, patents, industrial designs, trade secrets, copyrights, mask work registrations, and the like.

"Seller" shall mean the party that is offering something for sale (e.g. supplies, hardware, equipment, or Services) that receives an Agreement from an authorized representative of the Buyer and will be interpreted to include sub-tier suppliers, as applicable.



“Services” shall mean any services (including incidental to the delivery or effort required) to be performed by Seller as described in any Agreement.

“Specifications” shall mean all requirements with which Deliverables and/or Services and performance hereunder must comply, including, without limitation, drawings, instructions and standards, descriptions and specifications contained in Seller’s literature or proposal to the extent consistent with this Order and beneficial to Buyer, which may include Buyer’s modified requirements from time to time and applicable drawings, designs, quality control plans, samples and other descriptions furnished or specified by Buyer.

“Terms and Conditions” shall mean this document, the Buyer’s Agreement Terms and Conditions, regardless of whether modified or unmodified by the Parties.

In consideration of the mutual covenants set forth herein, the Parties agree as follows:

**1. PURCHASE ORDERS.**

Seller shall ship or perform Deliverables only against a Purchase Order. A “Purchase Order” shall be this Order or a written purchase order of Buyer, in the form of this Order as amended from time to time by Buyer. These Standard Terms apply to every shipment and sale of Deliverables from Seller to Buyer and to the performance of all Services by Seller for Buyer. Each Purchase Order shall be assigned a purchase order number by Buyer (the “Purchase Order Number”). Seller’s commencement of Services or shipment of some or all Deliverables under a Purchase Order, or Seller’s failure to reject a Purchase Order in writing within 3 days of its receipt, shall constitute Seller’s acceptance of these Standard Terms. If a Purchase Order shall be deemed an acceptance of a prior offer by Seller, such acceptance is limited to the express terms contained herein. The terms and conditions of any agreement signed by Buyer take precedence over any inconsistent terms and conditions in these Standard Terms. Terms and conditions stated on the front of a Purchase Order take precedence over any inconsistent terms and conditions in these Standard Terms with respect to such Purchase Order. Any acceptance by Seller stating different or additional terms from those stated in a Purchase Order (including these Standard Terms) shall not operate as an acceptance by Buyer to use such in conjunction with the Purchase Order. No such differing or additional terms in Seller’s acceptance shall be binding or effective unless expressly agreed to in writing and duly signed by Buyer.

**2. PACKING AND SHIPMENT OF DELIVERABLES.**

Packing. All Deliverables shall be prepared for shipment according to Buyer’s instructions, in a manner that follows good commercial practice, acceptable to common carriers for shipment at a commercially reasonable rate, and adequate to ensure safe arrival. Packing costs shall be included in the price of the Deliverables. Seller shall clearly mark all containers with necessary lifting, handling and shipping information, Purchase Order Numbers, date of shipment and the names of Buyer and Seller.

Shipment. Purchase Orders shall indicate a “Ship To” address. Seller shall not make, and Buyer shall have no obligation to accept, any partial shipments or shipments received before the date specified in the Purchase Order. Unless otherwise specified, all shipments shall be DDP (Incoterms, 2000) to such address. Title and risk of loss shall pass to Buyer at the DDP delivery point; provided, however, that the risk of loss shall remain with Seller as to any Deliverables which is not accepted, which is rejected, or as to which Buyer’s acceptance has been revoked. All shipments shall be accompanied by an itemized packing list.

Purchase Order Numbers. Seller shall mark all invoices, bills of lading, and packing lists to show legibly the complete Purchase Order Number to which they relate. If Seller does not place an accurate Purchase Order Number on any document, Buyer will incur internal costs and may assess Seller a reasonable handling charge.

**3. SCHEDULE FOR DELIVERY OF DELIVERABLES; DELIVERY, CANCELLATION AND CHANGES.**



Delivery of Deliverables shall be strictly in accordance with the schedule set forth in each Purchase Order and Seller will report any delivery or performance delays to Buyer immediately. Receipt of such report shall not operate as a waiver of any of Buyer's rights hereunder. Buyer may, at any time cancel, any shipment of Deliverables not actually received or accepted by the "Ship To Arrive Date" shown on the applicable Purchase Order without cost or further obligation to Seller. Seller shall ship back orders and late shipments of Deliverables only to the extent authorized in writing by Buyer. Buyer shall have the right to cancel a Purchase Order, in whole or in part, increase or decrease Deliverables quantities or requirements, change any delivery dates or make changes with respect to the method of shipment or packing or the place of delivery upon fourteen (14) days written notice prior to delivery of Deliverables without liability to Seller or any third party. Any partial cancellation shall not affect Seller's obligations with respect to the un-cancelled portions of a Purchase Order. Such rights of cancellation shall be in addition to any and all other rights of Buyer.

**4. SCHEDULE FOR PERFORMANCE OF SERVICES; PERSONNEL; MATERIALS; TERMINATION; EXPENSES.**

Seller shall perform the Services and deliver to Buyer any required deliverables ("Deliverables") by the completion date set forth on each Purchase Order and, if no timeline is provided on a Purchase Order, in accordance with the timeline provided by Buyer. Seller will report any performance delays to Buyer immediately. Receipt of such report shall not operate as a waiver of any of Buyer's rights hereunder. Seller shall only use personnel acceptable to Buyer in performing the Services. Unless otherwise agreed in writing by Buyer, Seller shall furnish at its own expense all materials and supplies necessary to perform the Services. Buyer may terminate a Purchase Order in whole or in part and any Services at any time, with or without cause, upon notice to Seller. Upon termination without cause by Buyer, Seller will be entitled to payment for Services properly performed prior to the date of termination. Seller will not be reimbursed any out-of-pocket expenses incurred in performing the Services unless expressly authorized by Buyer in writing prior to such expenses being incurred. Any approved expenses shall be reimbursed without mark-up. Any approved travel expenses shall be in accordance with and governed by the terms and conditions of Buyer's then-current Business Travel Guidelines. If travel is necessary and approved in conjunction with the Services, Seller may request a copy of such guidelines from Buyer prior to incurring any travel expenses.

**5. OWNERSHIP OF DELIVERABLES.**

Buyer will own all right title and interest, including any intellectual property rights to everything that Seller creates in performing any Services including, without limitation all Deliverables, designs, drawings, renderings, specifications, sketches and models and other tangible work product. Seller will deliver to Buyer when the Services are completed, or sooner if Buyer requests, all Deliverables or draft Deliverables and any other materials provided by Buyer or that contain Buyer's proprietary information.

**6. PRICE; PAYMENT; TAXES.**

(a) Price Changes. The prices on a Purchase Order are not subject to any increase or additional charges because of increased cost, any change in law or any other reason. Seller warrants that such prices shall be as low as or lower than the prices charged to any third party for such Deliverables or Services in similar quantities and under similar delivery requirements. In the event Seller offers a lower price for Deliverables or Services to any such third party, or in the event of a general price reduction for Deliverables or Services, the price to Buyer shall be reduced to such lower price with respect to Deliverables or Services that have not been paid for before such change effective upon the date of such third party offer or general price reduction.

(b) Payment. Buyer shall not be obligated to pay any invoice until 30 days after the later of (i) completion of delivery of the Deliverables or performance of the Services; and (ii) Buyer's receipt from Seller of the corresponding invoice from Seller. In no event shall Buyer be obligated to pay Seller any amount in excess of the Agreement or Purchase Order price.



(c) Invoices. For Deliverables, Seller shall send Buyer an invoice within 30 days after shipping Deliverables to Buyer. Such invoice shall include, without limitation, the Purchase Order Number(s), a description of the Deliverables as well as quantities and unit prices. For Services, Seller shall invoice Buyer no more than monthly for Services provided periodically and upon completion for Services performed on a project basis. Such invoice shall include, without limitation, the Purchase Order Number, a description of the Services, and, for Services rendered on an hourly basis, the hours spent, by individual, and the hourly rates for Services. Seller shall itemize any pre-approved expenses on the invoice and provide supporting documentation for such expenses with its invoice. Buyer agrees that Seller may, solely as a matter of administrative convenience, use Seller's standard form of invoice, which may contain pre-printed or other terms. Notwithstanding anything to the contrary therein, the parties understand and agree that such invoice terms shall be without any effect whatsoever to the extent such terms add to, subtract from, or differ from the terms of the Purchase Order or these Standard Terms.

(d) Taxes. Unless otherwise expressly stated, the prices set forth in a Purchase Order shall include all applicable taxes, including without limitation foreign, federal, state, local and value-added taxes ("VAT"), and any duties, imposts or levies other than VAT. Seller's invoicing Buyer for any tax shall constitute a warranty that Seller is duly registered with the taxing agency that levies the tax. If Seller does not remit the tax to the appropriate agency, or if a subsequent tax is assessed by the agency against Buyer, in addition to other remedies available to Buyer, Seller shall reimburse Buyer for all amounts of tax Buyer has remitted to Seller.

(e) Inspection. Payment shall not constitute acceptance of any Deliverables or any Service. Buyer shall have the right to inspect the Deliverables and all Services performed and reject whatever is nonconforming. This right of inspection, whether exercised or not, shall not affect Buyer's right to revoke acceptance or pursue other remedies if defects or nonconformities are discovered at a later date, notwithstanding that any defect or nonconformity could have been discovered upon inspection. Upon any rejection of nonconforming Deliverables, Buyer may return all such Deliverables or a part thereof even though less than a commercial unit, and Seller agrees to pay or reimburse Buyer for invoice costs, delivery costs, the cost of returned shipments, and labor and other expenses incurred in sorting, inspecting, and packing Deliverables for return.

(f) Disputes. Any dispute that arises under or is related to this Agreement that cannot be settled by mutual agreement of the Parties may be decided by a court of competent jurisdiction. Pending final resolution of any dispute, Seller shall proceed with performance of this Agreement according to Buyer's instructions so long as Buyer continues to pay amounts not in dispute.

## **7. CONFIDENTIALITY.**

Seller will hold in strict confidence and, without the prior written consent of Buyer, will not reproduce, distribute, transmit, transfer or disclose, directly or indirectly, in any form, by any means for any purpose, any Confidential Information except for internal use on an as needed basis. Upon request by Buyer, or upon termination or expiration of this Agreement, Seller shall promptly deliver to Buyer all Deliverables that may contain Buyer's confidential or proprietary information, and any materials provided to Seller for its performance of the Services. The granting to Seller of access to any such materials or information will not be construed as granting either a license to use or gift of ownership in such materials or information. Seller may disclose such terms and conditions to the extent required to do so by law or pursuant to any governmental rule, regulation or request. The terms of this Section 8 supplement and do not supersede the terms and conditions of any separate non-disclosure agreement between Seller and Buyer, and any applicable provisions of the Uniform Trade Secrets Act. Seller will not use or refer to Buyer, this Purchase Order, any project worked on for Buyer or any element thereof in any promotional or professional materials without the express prior written consent of Buyer.

## **8. TERM AND TERMINATION.**

These Standard Terms apply to every shipment and sale of Deliverables from Seller to Buyer as well as to the performance of any Services by Seller for Buyer until a revised set of Buyer's standard terms and conditions are



provided to Seller. Buyer may terminate these Standard Terms, with or without cause, upon 30 days prior written notice to the Seller. Upon the termination of these Standard Terms or this Order, Seller will immediately return or destroy all Confidential Information of Buyer in its possession. All accrued payment obligations of Buyer and Seller and all Purchase Orders that have been accepted (but not cancelled) shall survive expiration or termination of these Standard Terms. The provisions of Sections 3 through 16 shall survive any expiration or termination of these Standard Terms or this Order.

#### **9. WARRANTY.**

(a) Deliverables Warranty. Seller warrants that: (i) all Deliverables provided hereunder shall be new, merchantable, of satisfactory quality, free from defects in workmanship, materials and design (except where such design has been provided solely by Buyer), fit for the purposes to which Seller reasonably knows or should know such Deliverables shall be put, shall conform to the Purchase Order, published specifications and samples, and shall be free from claims or liens of third parties, including without limitation any mechanics liens or other encumbrances; (ii) the Deliverables and its use by Buyer will not infringe any patent, trademark, copyright or other right; that the Deliverables has adequate warnings and instructions; and that Seller is not a party to any agreement or understanding, and that there is no other impediment or restriction, that prohibits or prevents Seller from selling and delivering the Deliverables to Buyer; and (iii) all Deliverables shall be manufactured, processed, packaged, labeled, marked, tagged, tested, certified, weighed, inspected, shipped and sold in compliance with all applicable foreign, federal, state, provincial and local laws and regulations (collectively "Laws"). With respect to any Deliverables that is alleged to fail to comply with the foregoing warranties, Seller shall accept return of such Deliverables from Buyer, at Seller's expense, and at Buyer's discretion promptly: (i) repair such Deliverables to make it conforming and return it to Buyer; (ii) replace such Deliverables with Deliverables which does conform; or (iii) refund all amounts paid to Seller for such nonconforming Deliverables. Buyer shall have no liability for any returned Deliverables, and Seller shall bear all liability, responsibility and expenses therefor. Any approval by Buyer of Seller's materials, design or manufacturing or other processes shall have no effect on the foregoing warranties.

(b) Services Warranty. Seller warrants that: (i) all Services performed hereunder will be performed in a good and workmanlike manner, free from negligent, defective or deficient workmanship and consistent with the best practice in Seller's industry and that such Services and any Deliverables provided pursuant thereto will conform to the Purchase Order and all specifications of Buyer; and (ii) Seller has all licenses necessary to perform the Services and will perform the Services in strict compliance with applicable law. Seller agrees to re-perform or otherwise correct defects of any Services not conforming to the foregoing warranty promptly, without expense to Buyer when notified of such nonconformity by Buyer.

(c) General. Seller agrees to execute and furnish to Buyer on request all reasonable certifications, guaranties and other documents regarding compliance with the warranties set forth in this Section 10. All warranties set forth herein shall run to Buyer, its successors and assigns. Seller shall immediately notify Buyer should Seller become aware of any non-compliance with the foregoing warranties. Buyer's inspection, test, acceptance, or use of the Services or Deliverables furnished hereunder shall not affect Seller's obligation under these warranties, and such warranties shall survive inspection, test, acceptance or use.

#### **10. INDEMNITY.**

Seller shall indemnify, defend and hold harmless Buyer, its officers, directors, shareholders, affiliates, agents, employees, and other representatives from and against any and all actions, losses, liabilities, costs, damages, claims, demands, judgments and expenses of any kind (including, without limitations, attorneys' and experts' fees, costs and expenses) (collectively, "Claims") arising from or related to: (i) the design, manufacture, labeling, shipment, use and/or sale of any Deliverables; (ii) the performance or non-performance of any Services, (iii) the Deliverables; (iv) Seller's actual or alleged violation of any Laws; or (v) Seller's breach of this Order or these Standard Terms, including without limitation any breach of warranty hereunder or Seller's failure to remit taxes in



accordance with Section 7. Buyer shall notify Seller of any such Claim and Seller shall defend or settle, upon prior written approval of Buyer and at Seller's sole expense, each and every such Claim. If an injunction restricting Buyer's rights with respect to any Deliverables is issued or appears reasonably likely to be issued as a result of any such Claim, Seller agrees at its expense, and at Buyer's sole discretion, to promptly either: (w) procure for Buyer the right to continue using such Deliverables; (x) replace such Deliverables with non-infringing Deliverables; (y) modify such Deliverables so that it is non-infringing; or (z) refund to Buyer the amount paid for such Deliverables.

#### **11. LIMITATION OF LIABILITY**

The following provisions shall limit a Party's liability under any SOW under this Agreement as follows:

(a) General. Except with respect to liability arising out of or in connection with (i) the breach by a Party of the NDA; (ii) indemnification obligations; or (iii) a Party's negligence or intentional misconduct, in no event will either Party be liable to the other for any amounts in excess of the amounts paid or owed to Seller under any SOW under this Agreement.

(b) Government. In the event this Agreement is in performance of a Government Prime Contract, (i) if Seller, its subcontractor, or prospective subcontractor fails to submit accurate, complete and current cost or pricing data, and, as a result of that failure, the Government reduces the price of Buyer's prime contract, Buyer may recover from Seller an amount equal to the price reduction of the prime contract. (ii) If, as a result of Seller's or its subcontractor's foregoing conduct, the Government imposes a penalty on or charges Buyer interest, Buyer may recover from Seller the amount of that interest or penalty.

#### **12. INSURANCE.**

Seller will maintain any insurance required by applicable law as well as adequate insurance to cover any actions, errors or omission related to Seller's negligent performance of the Services or furnishing of the Deliverables and Seller's indemnification obligations hereunder. Seller shall furnish to Buyer, upon Buyer's request, a certificate of insurance evidencing such insurance.

#### **13. ASSIGNMENT AND SUBCONTRACTING; INDEPENDENT CONTRACTORS.**

Seller may not assign or subcontract all or part of this Order or the performance of any Services without Buyer's prior written consent. The parties are independent contractors, and no agency, partnership, joint venture, employee-employer or franchisor-franchisee relationship is intended or created by this Order. The individuals performing the Services are Seller's personnel. Seller is solely responsible for the supervision, direction and control of its personnel, and shall pay or withhold, as applicable, all payroll taxes, worker's compensation and unemployment compensation insurance assessments, and employee-authorized benefits-related amounts. Seller's personnel shall not be entitled to any benefits extended to Buyer's employees

#### **14. GENERAL.**

If any provision of these Standard Terms is unenforceable, it shall be amended to the minimal extent possible to achieve the same effect as originally written, and all other sections of this Order shall remain unaffected. Time is of the essence with this Order. The waiver of and/or failure to enforce any one or more of the conditions of this Order shall not constitute a waiver of subsequent non-performance. This Order shall be governed by the laws of the State of Delaware, USA. Venue and jurisdiction for any lawsuit involving this Order shall exist exclusively in the state and federal courts located in Delaware. The United Nations Convention on Contracts for the International Sale of Goods shall not apply. The prevailing party in any enforcement proceeding shall be entitled to its reasonable litigation costs and attorney's fees. The exercise of any remedy herein shall be without prejudice to any other right or remedy available to either party. The rights and remedies provided to Buyer herein shall be cumulative and in addition to any other rights and remedies provided by law or equity. All claims for monies due or



to become due from Buyer hereunder shall be subject to deduction by Buyer for any setoff or counterclaim arising out of this or any other of Buyer's or its affiliates' transactions with Seller.

**15. RESERVATION OF RIGHTS.**

Nothing in this Agreement will limit Buyer's rights under applicable law. Seller's breach of any of its obligations may result in damage to the Buyer. In the event of such breach, the Buyer will be entitled to injunctive relief and/or a decree for specific performance and such other and further relief as may be proper including but not limited to monetary damages.

**16. SURVIVAL.**

Sections of this Purchase Order that will survive termination of the Purchase Order include: Warranty, Indemnification, Confidentiality/Publicity, Ownership, and Return of Materials, and Governing Law.