

# STEINBICHLER VISION SYSTEMS, INC. ("BUYER") GENERAL TERMS AND CONDITIONS OF PURCHASE

## 1. Scope and Acceptance.

(a) These General Terms and Conditions of Purchase ("Terms") apply to all written and oral purchase orders and amendments thereto (collectively referred to as "Order") issued by the Buyer. All goods and services (whether or not ancillary to a sale of goods) to be provided under an Order are included in the term "Goods".

(b) An Order for which written confirmation is requested may be accepted only by returning a copy thereof signed by the Seller within seven days of its date. However, Buyer may elect to consider Seller's oral quotation or acceptance of an Order, Seller's preparation to provide the Goods, or Seller's delivery of the Goods, as an acceptance of an Order and its terms (and of no other terms) and enforce an Order. Buyer objects to any additional or contrary terms in Seller's quotation or acceptance, and the terms herein shall be binding upon the parties. An Order is not a firm offer and may be revoked prior to acceptance.

(c) An Order does not constitute an acceptance by Buyer of any offer to sell, any quotation, or any proposal. Reference in an Order to any such offer to sell, quotation, or proposal shall in no way constitute a modification of any of the terms and conditions of an Order. A reference to Seller's proposal or quotation in an Order is not an acceptance to Buyer of terms which conflict with forms and documents provided by Buyer that are a part of an Order. **TERMS AND CONDITIONS IN AN ATTEMPTED ACKNOWLEDGMENT OF AN ORDER INCONSISTENT WITH OR IN ADDITION TO THE TERMS AND CONDITIONS OF AN ORDER IS NOT BINDING UPON BUYER UNLESS SPECIFICALLY ACCEPTED BY BUYER IN WRITING, AND BUYER HEREBY OBJECTS THERETO.** No course of performance or conduct by Buyer shall be construed to waive, modify or otherwise adversely affect Buyer's rights.

**2. Prices.** All prices shall be FOB destination (place of delivery). The prices in an Order shall be complete, and no additional charges of any type shall be added without Buyer's express written consent, including but not limited to, shipping, packaging, labeling, custom duties, taxes, storage, insurance, boxing and crating. All cash discounts shall be computed from the date of receipt by Buyer of a final invoice or receipt of the Goods, whichever occurs later. Duty drawback and similar rights of Seller and its suppliers are assigned to Buyer.

**3. Blanket Order.** If an Order is identified as a Blanket Order or in some other manner indicating Buyer's liability to purchase a specific quantity is limited to those goods subject to releases or other instructions from Buyer ("Blanket Order"), the quantities specified and delivery dates listed are estimated quantities and delivery dates. The purchase of the Goods specified is expressly contingent upon the issuance of a release by Buyer identifying the Goods to be purchased and providing delivery directions. When an Order is identified as a Blanket Order or deliveries are otherwise specified to be in accordance with Buyer's written releases, Seller shall not fabricate or assemble any Goods nor procure required materials nor ship any Goods except to the extent authorized by such written releases or an Order specifying fabrication and delivery quantities. Forecasts are not releases and may not be relied upon by Seller. Buyer may return over shipments at Seller's expense for handling and transportation costs. Releases are included in the term "Order". This is not a requirements or output contract unless specifically stated.

## 4. Delivery.

(a) Delivery must be on the date indicated, if any, and otherwise as requested by Buyer. If delivery is "A.S.A.P." with a date indicated therewith, delivery must be on or before that date. If an Order is a Blanket Order, deliveries are to be made only in quantities and at times specified in the delivery schedule in an Order or by Buyer in releases. Buyer shall have no liability for payment of Goods delivered to Buyer which are in excess of quantities specified in an Order or releases. Buyer may, from time to time, change delivery schedules or direct temporary suspension of scheduled shipments.

(b) Shipping, drayage, demurrage, storage, insurance, packing, and related charges shall be prepaid by Seller, and then billed to Buyer if Buyer is responsible for such charges according to an Order. Goods shall be suitably packed, marked and shipped in accordance with the requirements of common carriers in a manner to secure the lowest transportation costs consistent with the requirements hereof. Packing slips identifying the purchase order number, release number and part number must accompany each shipment.

## 5. Risk of Loss and Title to Goods.

(a) All shipments are at the risk of the Seller, regardless of the F.O.B. point. If risk of loss is assumed by Buyer in writing, all risk casualty insurance for the full value of the Goods must be provided by Seller for the benefit of Buyer. The cost of any insurance must be paid by Seller unless otherwise agreed to in writing by Buyer. Under no condition will the risk of loss be that of Buyer unless such insurance is provided. Risk of loss shall not be governed by transfer of title.

(b) Title to Goods shall vest in Buyer the earlier of the date of an Order and their identification to an Order. Identification shall occur not later than the date Seller acquires or begins manufacture of the Goods.

## 6. Samples and Specifications.

(a) Seller, at its expense, shall fabricate from production tooling and processes and furnish to Buyer the number of samples specified on the face of the Order, or if none is specified, a reasonable number of samples. Seller shall inspect such samples before delivery and shall certify inspection results in the manner requested by Buyer.

(b) Buyer may, at any time make changes in quantities, drawings, specifications, testing or quality control, packing, shipment, scope of work and other terms of an Order. Any purported change shall be binding on Buyer only if made in a writing signed by Buyer. Any difference in price or time for performance necessarily resulting from such changes shall be adjusted equitably and an amendment to the Order or delivery schedule shall be provided in writing, provided Seller makes demand for such adjustments and delivers all supporting documentation within 10 days of receipt of Buyer's change. Time is of the essence for such demand. The price shall be adjusted solely to compensate Seller for increased costs of materials and direct costs necessarily incurred as a result of the changes. No adjustments shall be made for any change unless in a writing signed by Buyer. Seller may not substitute materials or change the specifications of the Goods in any way without written authorization from Buyer.

**7. Electronic Data Interchange.** Seller shall, at Buyer's request, connect to Buyer's electronic data interchange ("EDI") system. All transactions initiated under EDI shall be governed by the terms contained in Buyer's transmissions, except that standard terms and conditions which may be a part of Buyer's EDI system shall be supplemented by the Terms. A transmission is signed if it contains the name of the individual employee sending the transmission.

## 8. Inspection.

(a) All Goods shall be received subject to right of inspection and rejection by Buyer and its customer. Buyer and its customer shall have a reasonable time, but not less than 90 days after delivery, to inspect delivered Goods prior to accepting the Goods. Non-conforming and defective Goods will be held for Seller's instructions at Seller's risk and expense subject to Buyer's other remedies. Goods returned as defective or non-conforming shall not be

returned to Buyer without Buyer's approval. Payment for the Goods shall not constitute an acceptance. Buyer may rely on Seller's obligations and is not obligated to inspect goods prior to assembly or use. Acceptance shall not release Seller's responsibility for non-conforming or defective Goods.

(b) Seller shall provide adequate and safe facilities for inspections requested by Buyer and its customer at Seller's facilities. Seller shall provide and maintain an inspection and process control system acceptable to Buyer and its customer covering the Goods. Records of all inspection work by Seller shall be kept complete and available to Buyer and its customer during the performance of an Order and for such longer periods as may be specified in an Order, but not less than three years after delivery of the Goods to Buyer.

**9. Marking.** Markings shall be in English, bar code, and such other form as requested by Buyer. Seller shall mark each package with the Order number.

## 10. Confidential Information.

(a) Seller shall keep confidential any technical, process or commercial information derived from drawings, specifications and other data furnished by Buyer and shall not use or divulge, directly or indirectly, such information for the benefit of any other party without obtaining Buyer's prior written consent. Upon completion or termination of an Order, Seller shall promptly return to Buyer all materials incorporating any such information and any copies thereof.

(b) Any information which Seller has disclosed or may disclose to Buyer, which relates to the Goods, is acquired by Buyer free from any restrictions or claims (other than for patent infringement).

**11. Patents, Trademarks and Copyrights.** Seller shall defend and indemnify Buyer, its successors, assigns, customers and users of its products, against all suits at law or in equity and from all damages, claims and demands for actual or alleged infringement of any domestic or foreign patent, copyright or other property right by reason of the use or sale of the Goods. Seller grants to Buyer, its subsidiaries and affiliates an irrevocable, assignable, paid-up worldwide license under each copyright of Seller that is applicable to any intellectual property whatsoever furnished to Buyer in connection with the Goods. Title to any developments made by Seller while in performance of an Order which enhance or improve the Goods or Seller's products shall belong to Buyer.

**12. Service and Replacement Parts.** Seller shall sell to Buyer Goods as ordered by Buyer for production and replacement parts at the price(s) set forth in the Order during the 15-year period after Buyer completes current model purchases. The price(s) during the first three years of this period shall be those in effect at the conclusion of current model purchases. For the remainder of this period, the price(s) shall be increased to reflect increased direct costs.

## 13. Warranty.

(a) Seller warrants to Buyer and its customer that all Goods shall be: (i) merchantable; (ii) free from all defects in design, workmanship and materials; (iii) fit for the particular purposes for which they are purchased; (iv) in strict compliance with the specifications, samples, drawings, designs or other requirements (including performance specifications) approved or adopted by Buyer; and (v) provided with due care. Any attempt by Seller to limit, disclaim, or restrict any such warranties or any remedies of Buyer, by acknowledgement or otherwise, in accepting or performing an Order, shall be ineffective.

(b) Seller warrants to Buyer that the prices charged Buyer are the same or lower than all prices charged others for the Goods or similar goods during the 12 months prior to delivery.

(c) Seller warrants its performance of an Order shall comply with those sections of QS-9000, ISO-9000 (e.g. 9001), TS-16949, and other industry quality standards applicable to the obligations of Seller, whether or not Seller is certified under such standards.

## 14. Liability, Indemnity, and Insurance.

(a) Seller shall indemnify and protect Buyer against all liabilities, claims or demands for injuries or damages to any person or property arising out of the performance of an Order, by Seller, its servants, employees, contractors, agents, or representatives. Seller shall furnish an insurance certificate showing that Seller has statutory workers compensation insurance and liability insurance, including automobile and completed operations, for injury and damage with an aggregate limit of \$5,000,000. Liability coverage shall include completed products and operations coverage. The certificate must certify that the required insurance not be canceled or materially changed until 30 days after written notice to Buyer.

(b) If Seller's work under an Order involves operations by Seller on the premises of Buyer or one of its customers, Seller shall take all necessary precautions to prevent the occurrence of any injury to persons or damage to property during the progress of such work, and except to the extent that any such injury or damage is due solely and directly to Buyer's negligence, as the case may be, shall defend and indemnify Buyer against any claim which may result in any way from any act or omission of Seller, its agents, or subcontractors.

(c) Seller shall indemnify Buyer for any and all damages and reasonable expenses (including reasonable attorney fees) incurred because of property damages, personal injury, or other claims arising out of the condition, labeling, engineering, use, sale, storage, design, safety, etc. of the Goods whether or not incorporated in another product, if the damages claimed were not caused solely by negligence of Buyer. Seller waives the application of the doctrine of comparative negligence.

**15. Termination for Convenience.** Buyer may immediately terminate all or any part of an Order or release for Buyer's convenience, at any time and for any or no reason, by giving written notice to Seller. Upon such termination, Buyer shall pay to Seller in full satisfaction of any claim the following amounts without duplication: (i) an Order price for all custom manufactured Goods which have been completed in accordance with an Order or release not previously paid; and (ii) Seller's direct costs of work in process and raw materials incurred in furnishing the custom Goods to the extent such costs are reasonable in amount; less the reasonable value or cost (whichever is higher) of any Goods or materials used or sold by Seller with Buyer's written consent, and the cost of any damaged or destroyed Goods or materials. Buyer shall not pay for finished Goods, work in process or raw materials fabricated or processed in excess of those in releases (if releases are used in performance of an Order), for undelivered Goods which are Seller's standard stock or which are readily marketable, or which are not promptly delivered to Buyer after request. Buyer shall not pay for lost profit, unabsorbed overhead, interest, development and engineering costs, facilities and equipment, rearrangement cost or rental, unamortized depreciation, and general administrative burden. Within 60 days after termination, Seller must claim to Buyer with sufficient supporting data to permit Buyer's audit and shall promptly furnish such supplemental and supporting information as Buyer shall request. Buyer or its agent shall have the right to audit and examine all books, records, facilities, work, material, inventories and other items relating to any claim, or Seller's claim is deemed waived.

## 16. Default and Remedies.

(a) Seller shall be in default: (1) if Seller fails to perform any obligation within the time specified herein or any extension thereof or upon Buyer's demand if no time has been specified; or (2) if Seller fails to perform any of the other provisions of an Order, or so fails to make progress as to make Buyer reasonably apprehensive about Seller's ability or willingness to

perform its obligations; and if in either of these two circumstances Seller does not cure such failure within a period of two days or such longer period as Buyer may authorize in writing after receipt of notice from Buyer specifying such failure. Upon such default, Buyer may by written notice of default to Seller (i) terminate the whole or any part of an Order; and (ii) procure alternative goods or services upon such terms as it shall deem appropriate. Seller shall continue performance of an Order to the extent not terminated and shall be liable to Buyer for any excess costs for such similar supplies or services and other direct, incidental, and consequential damages. As an alternative remedy, and in lieu of termination for default, Buyer, at its sole discretion, may elect (1) to extend the delivery schedule and/or (2) to waive other deficiencies in Seller's performance in which case an equitable reduction in an Order price shall be established by Buyer to compensate Buyer for its damages. If Seller anticipates difficulty in complying with the required delivery date, or in meeting any of the other requirements of an Order, Seller shall promptly notify Buyer in writing. The rights and remedies of Buyer provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under an Order. Time is of the essence as to Seller's performance.

(b) If any of the Goods ordered are found at any time to be defective in design, material or workmanship, or otherwise not in conformity with the requirements of an Order, Buyer, in addition to such other rights, remedies and choices as it may have under an Order or by law, at its option and sole discretion may: (i) reject and return such Goods at Seller's expense; or (ii) require Seller to inspect the Goods and remove and replace non-conforming Goods with Goods that conform to an Order. If Buyer elects option (ii) above and Seller fails to promptly make the necessary inspection, removal and replacement, Buyer may at its option and Seller's cost, inspect and repair or replace the Goods.

(c) Seller grants Buyer a security interest in the Goods to secure Seller's performance and return of deposits, and grants Buyer an irrevocable power of attorney to execute and file financing statements.

(d) Buyer may set-off against amounts payable to Seller any indebtedness or claim which Buyer or its affiliates may have against Seller or its affiliates.

**17. Property Furnished by Buyer and Its Customer.** Unless otherwise agreed in writing, all tooling, equipment or material of every description furnished to Seller by Buyer or its customer or paid for by Buyer, and any replacement thereof, or any materials affixed or attached thereto ("Furnished Property"), shall be and remain the personal property of Buyer or its customer and held in trust for the benefit of Buyer or its customer. "Furnished Property" shall be plainly marked or otherwise adequately identified by Seller as the property of Buyer or its customer and shall be safely stored separate and apart from Seller's property. Buyer may enter Seller's premises and inspect "Furnished Property" and all related records during normal business hours. Seller shall not substitute any of its own property for Buyer's or Buyer's customer's property and shall not use "Furnished Property" except in filling an Order. Such property while in Seller's custody or control shall be held at Seller's risk, shall be kept insured by Seller at Seller's expense in an amount equal to the replacement cost with loss payable to Buyer or its customer and shall be subject to removal at Buyer's written request, in which event Seller shall prepare "Furnished Property" for shipment and shall deliver it to Buyer or its customer in the same condition as originally received by Seller, reasonable wear and tear excepted, all at Seller's expense. Seller waives any right to retain possession of "Furnished Property" to secure payment of amounts owed or for any other reason, and Buyer shall be entitled to a court order for possession.

**18. Seller's Tooling.** Seller, at its own expense, shall furnish, keep in good condition, and replace when necessary all tooling, jigs, dies, gages, fixtures, molds, and patterns ("Seller's Tooling") necessary for the production of the Goods. Buyer may inspect Seller's Tooling and production facilities during normal working hours upon reasonable notice to Seller. Seller shall insure Seller's Tooling with full fire and extended coverage insurance for the replacement thereof. Seller grants Buyer an irrevocable option to take possession of and title to Seller's Tooling that is special for the production of Goods upon payment to Seller of the book value thereof less any amounts the Buyer has previously paid to Seller for the cost of Seller's Tooling; provided, however, that this option shall not apply if Seller's Tooling is used to produce products that are standard stock of Seller. Seller grants Buyer a security interest in Seller's Tooling to secure Buyer's rights in Seller's Tooling.

## 19. Compliance With Laws.

(a) Seller shall promptly furnish to Buyer (i) upon written request a list of all materials in the Goods and, as necessary, the quantities of such and (ii) thereafter information concerning any change in composition of Goods.

(b) Seller warrants that each chemical substance constituting or contained in the Goods sold is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et. seq.) as amended, and that the Goods are not hazardous under any state or federal law except as clearly stated on the shipping and storage containers. Seller shall provide Material Safety Data Sheets upon their delivery. Seller shall defend and indemnify Buyer from claims alleging improper dispositions of the Goods except for grossly negligent dispositions.

(c) Seller warrants that the Goods shall be in compliance with applicable sections of the Federal Consumer Product Safety Act, the Federal Hazardous Substances Act, the National Highway Transportation Safety Act, and regulations thereunder.

(d) Seller warrants that the Goods shall be produced in compliance with the Fair Labor Standards Act, as amended, including Section 12(a) and Seller shall insert a certificate to that effect on all invoices.

(e) Seller warrants that its performance and the Goods shall comply with all applicable general and automotive industry standards, and federal, state or local laws, rules, regulations and ordinances.

(f) Upon request, Seller shall furnish promptly certificates of local value added in accordance with applicable government regulations. Each January, Seller shall provide NAFTA certifications for Goods shipped the prior year, including Certificates of Origin.

**20. Non-Assignment.** Seller shall not assign or subcontract any right or obligation under an Order without the prior written consent of Buyer.

**21. Applicable Law.** An Order is to be construed and enforced under the laws of Michigan. The Convention on the International Sales of Goods shall not apply. The parties consent to the exclusive jurisdiction and convenience of the courts of Michigan, including Oakland Circuit Court. Any declaration of unenforceability of a provision hereof shall be as narrow as possible and shall not void an Order or any other provision.

**22. Entire Agreement.** An Order (including these Terms) is a complete and exclusive statement of the terms of the parties' agreement. No course of prior dealings between the parties and no usage of the trade may be used by Seller to supplement or explain any term used in an Order. All modifications and waivers must be in a writing signed by Seller and Buyer, except as otherwise provided in an Order.

**23. Relationship of Parties.** Seller and Buyer are independent contracting parties only. There are no third party beneficiaries to an Order.

**24. Ethical Standards.** Seller shall not in any manner advertise or publish the fact that Seller has contracted to furnish Goods to Buyer (or Buyer's customers). Seller shall not give or offer to give any direct or

indirect gift or benefit to Buyer's employees, or enter into any outside business relationship with Buyer's employees.

(12/12/07) (Purchase Orders and RFQ's) - (934329.6)