

You (“You” or “Reseller”) have read, understand and agree to be bound by these Terms and Conditions (this “Agreement”) of the ZPE Partner Program (“Program” or “ZPP”) as well as Program policies and procedures. Reseller understands that the participation in the Program is open only to approved companies that resell ZPE products (“Products”) only to end-users. Reseller is appointed a non-exclusive participant in the Channel Partner Program, which may be modified or terminated by ZPE Systems (“ZPE Systems” or “ZPE”) at any time at its own discretion. You will be entitled to Program Specific Benefits including discounts and incentives (“Benefits”) as detailed in the **Channel Partner Program Requirements and Benefits available through the Partner Portal**. Reseller enters ZPP as a Reseller and shall purchase Products through Authorized Distributors only.

ZPP includes training programs for Resellers. ZPE recommends Reseller encourage employees who are involved in the resale of Products to use ZPE’s training materials and complete ZPE’s training programs. Completion of certain training programs are required to advance to a higher program tier that may qualify Reseller for additional program benefits.

This Agreement shall govern all your Orders (“Order” or “Orders” means a firm, non-cancellable purchase order for Products to be purchased by Reseller from ZPE Systems). No Order shall be binding upon ZPE Systems until accepted by ZPE Systems. Acceptance may be by either written acknowledgement or shipment. The term of Reseller’s participation in the Program is one (1) year, which may be automatically renewed without written prior notification by ZPE in ZPE’s discretion. This Agreement and Reseller’s participation in the Program may be terminated by either party with thirty (30) days written notice to the other party.

#### **1. LICENSES**

Subject to the terms of this Agreement, ZPE Systems grants You a limited, non-exclusive, non-transferable license (a) to demonstrate, promote, and market the ZPE Systems Products to End-Users in the Authorized Territory; and (b) to resell the ZPE Systems Products solely to End Users. ZPE Systems may terminate the license at any time without notice. Upon termination of this Agreement, you shall return any backup copy of the Licensed Software to ZPE Systems. You agree that you will not: (a) disassemble, decompile, or reverse engineer any Products; (b) copy or otherwise reproduce any Products; (c) remove, modify or otherwise tamper with notices or legends on the Products or any labeling on any physical device or media, (d) attempt to remove, copy, decompile, disassemble or modify any firmware contained in the Products, or (e) rent, lease, lend, sell, license, sublicense, publish, frame, mirror or otherwise distribute any part or content of the Channel Partner Program or Partner Portal. You shall be authorized to distribute the Products and You acknowledge that each End User is required to agree to the terms in ZPE Systems Master License Agreement.

#### **2. INFORMATION**

In connection with the Program, each party may have access to or be exposed to (through the Partner Portal or other means) any materials, data, trade secrets, pricing, business information, proprietary and other similar material, and information, whether in written, oral, electronic, website-based, or other forms, that is not generally known to the public (collectively, “Confidential Information”). All Confidential Information (i) shall be used solely for the purpose of the Program, (ii) shall not be used for any other reason or purpose, and (iii) shall not be distributed, disclosed or disseminated by Reseller to anyone except its employees and agents with a need to know, who have direct involvement with the Program, that have been informed of the confidential nature of the information, and are bound by a non-disclosure agreement with obligations not less restrictive than those specified herein. Reseller shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information. Reseller shall not disclose any Confidential Information while participating in the Program and for a period of five (5) years thereafter. Reseller shall cease use of Confidential Information and return any Confidential Information it has in its possession, upon termination of its participation in the Program. The receiving party is fully liable for any breach of this paragraph by its personnel. These confidentiality obligations do not apply to any Confidential Information that (a) the receiving party can demonstrate was already in its possession before receipt from the disclosing party; (b) is or becomes publicly available through no fault by the receiving party or its personnel; or (c) the receiving party rightfully received from a third party who has no duty of confidentiality. The receiving party acknowledges that damages for improper disclosure of Confidential Information may be irreparable and that the disclosing party shall be entitled to seek equitable relief, including injunction and preliminary injunction, in addition to all other remedies available at law or in equity.

#### **3. INTELLECTUAL PROPERTY**

You acknowledge that the Products and Services embody valuable Trade Secrets (as defined in the Uniform Trade Secrets Act) of ZPE Systems and its suppliers. Except as provided herein, You shall not: (a) alter or remove any of ZPE Systems’ or its suppliers’ copyright, patent, or other proprietary rights notices or legends appearing on or in the Products and Services; (b) modify, adapt, alter, translate, or create derivative works of the Products and Services; or (c) reverse engineer the Products and Services or reverse-compile, decompile, or attempt to derive the source code of any object code contained in any of the Products and Services.

#### **4. WARRANTY DISCLAIMER**

**ZPE SYSTEMS MAKES NO REPRESENTATIONS OR WARRANTIES TO RESELLER AND ZPE SYSTEMS HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, SATISFACTORY QUALITY, OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE.**

#### **5. LIMITATION OF LIABILITY**

**IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR PUNITIVE, EXEMPLARY, INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, THE COST OF REPLACEMENT PRODUCTS, INTERRUPTION OF BUSINESS, COLLATERAL DAMAGES, LOSS OF PROFIT, DATA, BUSINESS, GOODWILL, SAVINGS, OR REVENUE, OR THE CLAIMS OF THIRD PARTIES, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS. EXCEPT AS SET FORTH BELOW, IN NO EVENT WILL ZPE SYSTEMS CUMULATIVE AGGREGATE LIABILITY UNDER THIS AGREEMENT EXCEED THE LESSER OF (\$100,000) OR THE AMOUNTS PAID BY YOU TO ZPE SYSTEMS IN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT WHICH GAVE RISE TO THE CLAIM FOR DAMAGES. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE. NOTWITHSTANDING THE ABOVE, THE LIMITATIONS SET FORTH ABOVE IN THIS SUBSECTION SHALL NOT APPLY TO OBLIGATIONS OF INDEMNIFICATION BY ZPE SYSTEMS**

#### **6. INDEMNIFICATION BY RESELLER & ZPE SYSTEMS.**

You will defend, indemnify and hold ZPE Systems, its directors, officers, agent, employees, Suppliers, and representatives harmless from and against all claims, suits, demands, proceedings, losses, damages, actions or expenses (including without limitation court costs, experts’ fees and reasonable attorneys’ fees) arising out of or resulting from a third party claim, action or suit against any such indemnified party arising out of or related to your violation of any laws or infringement of any rights of person or privacy in the provision of services or use of the Products.

**7. GENERAL**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of California. In the event that any dispute between the parties arises out of or is related to any of the provisions of this Agreement, the prevailing party in any such action shall recover all of its costs, including reasonable attorneys' fees, including without limitation attorneys' fees incurred in connection with any insolvency proceeding under Title 11 of the United States Code, as well as any and all appeals related to any order or judgment entered by a court of competent jurisdiction. For transactions in regions where ZPE does not have a legal entity and Reseller actually transacts a sale, the following choice of law shall apply: (i) South America, this Agreement shall be governed by the laws of Brazil by a court with lawful venue and jurisdiction; (ii) Central America, this Agreement shall be governed by the laws of the United States by a court with lawful venue and jurisdiction; (iii) North America, this Agreement shall be governed by the laws of the United States by a court with lawful venue and jurisdiction; (iv) Europe, Middle East, and Africa, this Agreement shall be governed by the laws of Ireland by a court with lawful venue and jurisdiction; (v) Asia, Australia, and New Zealand, this Agreement shall be governed by the laws of Singapore by a court with lawful venue and jurisdiction.

Terms of Sale. In addition to the terms and conditions of this Agreement, ZPE Systems Terms and Conditions of Sale located at [www.zpesystems.com](http://www.zpesystems.com) shall apply to all sales and are incorporated by reference as if fully set forth herein. In the event of a conflict between this Agreement and the Terms and Conditions of Sale, this Agreement shall control.

By proceeding you agree and acknowledge that you have read and understood the terms of this Agreement and agree to be bound by its terms. To confirm your understanding and acceptance of the Agreement, click "Agree."

By accessing the Partner Portal you agree to ZPE's Terms of Use. – [link to term of use](#)

I consent to the processing of my personal data to receive marketing communications updates from ZPE in accordance with ZPE [Privacy Notice](#) (provided in accordance with Article 13 of the General Data Protection Regulation ([GDPR, EU Regulation 679/2016](#)) and other applicable data privacy laws):

Yes No drop down