



## ZPE SYSTEMS STAND-ALONE SOFTWARE MAINTENANCE AGREEMENT

This Stand-Alone Software Maintenance Agreement is entered by and between ZPE Systems, Inc. (“ZPE”) and you (“Licensee”), and is subject to the terms and conditions of the Master Agreement, as defined below.

1. **Definitions.** In addition to the Definitions in Schedule 1 to the Master Agreement (defined below), which Definitions are hereby incorporated by reference, the following terms shall have the meanings set forth below:

- 1.1 **“Agreement”** means this ZPE Systems, Inc. Stand-Alone Software Maintenance Agreement.
- 1.2 **“Confidential Information”** means all confidential information relating to the Stand-Alone Software Product and ZPE Intellectual Property Rights, together with all confidential information (in whatever media) related to ZPE business.
- 1.3 **“Documentation”** means written and/or online material provided by ZPE in connection with the Hardware Product.
- 1.4 **“Effective Date”** means the date Licensee purchased Hardware Maintenance for set forth in the Preamble above.
- 1.5 **“Expiration Date”** means one (1) year from the Effective Date.
- 1.6 **“Intellectual Property Rights”** means the ZPE IP as defined in the Master Agreement.
- 1.7 **“Services”** means the software maintenance services provided by ZPE pursuant to this Agreement.
- 1.8 **“Stand-Alone Software Maintenance Package”** means the Limited, Silver or Gold Stand-Alone Software Maintenance package Licensee purchased pursuant to this Agreement.
- 1.9 **“New Releases”** means the latest version of the Hardware, including any updates, revisions, or modifications released by ZPE.
- 1.10 **“Master Agreement”** means the ZPE Systems Master License Agreement by and between ZPE and Licensee.
- 1.11 **“RMA”** means Return Materials Authorization as used in the Software Maintenance Program Overview which is attached hereto as Schedule 1.

In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the Master Agreement, the provisions of the Master Agreement shall control.

2. **Services.** During the term of this Agreement, ZPE will provide Licensee with the following Services consistent with the Stand-Alone Software Maintenance Package Licensee has purchased for the Stand-Alone Software Product:

2.1 ZPE shall provide the Licensee with all New Releases during the term of this Agreement.

2.2 ZPE shall provide technical support (English Language only) via telephone or email during normal business hours (based on US Pacific Standard time). For Limited services customers, telephone support is during normal business hours. For Gold services customers, telephone support is 24/7. For local customer support numbers, please visit [www.zpesystems.com/resources/support](http://www.zpesystems.com/resources/support).

2.3 ZPE shall also provide such other Services as it deems reasonably necessary to cause the Software Product to perform materially in accordance with the then current Documentation, provided that Licensee installs all updates, modifications, and corrections provided by ZPE and that Licensee’s use of the Software Product is in accordance with this Agreement, the Documentation, and the Master Agreement. ZPE shall use its reasonable efforts to rectify any errors in the Software Product that Licensee notifies ZPE about, if ZPE is able to confirm that such error or defect exists through independent testing.

2.4 When notifying ZPE of an error in the Software Product, Licensee shall provide ZPE with an example of the error, the context in which the error was encountered, a description of the system configuration, and the steps necessary to generate or reproduce the error.

2.5 If requested by ZPE, Licensee shall grant ZPE or its representative's access to the Software Product and the system on which it is installed during working hours (and any extra agreed cover) so that ZPE can carry out its obligations under this Agreement. ZPE's access will be through a screen share access with Licensee. Notwithstanding the foregoing, Licensee reserves the right to grant or restrict ZPE's access to the Stand-Alone Software Product.

2.6 Limitations. ZPE shall be under no obligation to furnish technical support or provide access to updates under this Agreement to the extent that such support or access to updates is required as a result of: (i) the operation of the Stand-Alone Software Product in environmental conditions or configurations outside those prescribed in the Documentation; (ii) Licensee's material failure to maintain the Stand-Alone Software Product in accordance with the Documentation provided to Licensee with the Stand-Alone Software Product or during the term of this Agreement; (iii) maintenance of the Stand-Alone Software Product by anyone other than ZPE or a third party authorized by ZPE; and (iv) modifications to the Stand-Alone Software Product not authorized by ZPE or made by or on behalf of Licensee. The Services provided are further subject to the Third Party License Agreement(s) for the respective Product.

3. **Warranties**. In addition to the limited warranties set forth in the Master Agreement, ZPE represents that each ZPE employee assigned to perform Services under this Agreement possesses the skills and training necessary to be able to perform such Services in a competent and professional manner.

4. **Ownership**. ZPE has granted Licensee a non-exclusive, non-transferable license to use the Stand-Alone Software Product for internal business purposes only. Licensee may make one copy of the Stand-Alone Software Product for backup purposes only, but shall include therein all proprietary marks and notices included in the original. Licensee may not otherwise copy or permit the copying of any part of the Stand-Alone Software Product. The Stand-Alone Software Product is ZPE proprietary and exclusive property and constitutes its valuable trade secret. Licensee will take reasonable steps to protect the trade secret of the Stand-Alone Software Product. ZPE shall own the entire right, title, and interest in and to all corrections, modifications, enhancements, programs, information and work product conceived, created or developed, alone or with you or others, as a result of or related to the performance of this Agreement. Except and to the extent expressly provided in the License Agreement with respect to the Software, ZPE does not grant to you any right or license, express or implied, in or to the Stand-Alone Software Product or any of the foregoing.

5. **Injunctive Relief**. Each party acknowledges that a violation or threatened violation of section 3 or 4 of this Agreement would result in damage that is largely intangible but nonetheless real and that is incapable of complete remedy by award of damages. Thus, such violation or threatened violation will give ZPE the right to a court-ordered injunction to specifically enforce such covenant or obligation.

6. **Term and Termination**. The term of this Agreement will commence upon the Effective Date and expire on the Expiration Date. Near the Expiration Date, ZPE will send Licensee an invoice to automatically renew this Agreement. Acceptance of the renewal will be indicated by Licensee either: (i) submitting a purchase order to ZPE, or (ii) making payment of the invoice. The term of Licensee's renewal will commence on the day following the Expiration Date of the prior term, and the new term expires on the anniversary thereof, depending on the option Licensee purchased. Nonpayment of the invoice will indicate that Licensee does not wish to renew this Agreement. If you elect not to procure continuous Services but rather allow the Services to lapse, then Licensee will not be entitled to any New Releases published during the lapsed period. Should Licensee wish to reactivate lapsed Services later than thirty (30) days after its expiration, Licensee will be required to pay a reactivation fee equal to the amount of time that has lapsed since your previous Software Maintenance Agreement expired, in addition to the Software Product Maintenance Services costs requested for the current year term. Software Product Maintenance Services is nontransferable.

7. **Partial Invalidity**. If any provision of this Agreement is ruled wholly or partly invalid or unenforceable by a court or other government body of competent jurisdiction, the validity and enforceability of all provisions of this Agreement not ruled to be invalid or unenforceable will be unaffected.

8. **Entire Agreement.** The terms of this Agreement are deemed to be a part of the Master Agreement. This Agreement together with the Master Agreement and any applicable Documentation shall be the complete and exclusive statement of the arrangement between the parties with respect to the provisions of Hardware Maintenance by ZPE, and shall be binding upon each of the parties hereto, their respective successors and to the extent permitted their assigns. Neither this Agreement nor the Master Agreement can be amended or otherwise modified, except as agreed to in writing by each of the parties hereto. A breach of this Agreement shall constitute a breach of the Master Agreement and vice versa.

The parties signing below agree to the above and intend to be legally bound. Notwithstanding any statute, regulation, or other rule of law, a signature provided by facsimile or other electronic copy will be deemed to be an original signature, and this Agreement may be executed in counter-parts, and all counterparts taken together will be regarded as one and the same instrument. If any provision of this Agreement is ruled wholly or partly invalid or unenforceable by a court or other government body of competent jurisdiction, the validity and enforceability of all provisions of this Agreement not ruled to be invalid or unenforceable will be unaffected.