



## Duotech Services, LLC.

### PRODUCTS TERMS AND CONDITIONS OF SALE

THE FOLLOWING TERMS/CONDITIONS, TOGETHER WITH ANY OTHER TERMS/CONDITIONS SPECIFICALLY AGREED TO IN WRITING BY SELLER, SHALL APPLY TO ALL ORDERS ("Order(s)") FROM, AND SALES OF PRODUCTS ("Products") OR SERVICES ("Services") TO BUYER. ANY ACCEPTANCE OF ANY ORDER OF BUYER IS CONDITIONED UPON THESE TERMS/CONDITIONS. ANY ADDITIONAL OR DIFFERENT TERMS/CONDITIONS PROPOSED BY BUYER IN ANY DOCUMENT ARE OBJECTED TO AND SHALL NOT BE BINDING UPON SELLER.

No salesperson is authorized to bind Seller to any promise or understanding not expressed herein.

**I. PRICES** All prices are subject to change without notice in the event of any changes in cost of materials or labor, specifications, quantities, delivery schedules, customs duties, other factors beyond Seller's control, or in the event of delays caused by instructions of the Buyer, or failure of the Buyer to give Seller adequate information. Further, prices payable by the Buyer shall be subject to immediate increase, should the Seller as a result of governmental action or regulation including, without limitation, those contemplated by an investigation under Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. §1862) or those contemplated by an investigation under Section 301 of the Trade Act of 1974 (19 U.S.C. §2411), incur additional duties, tariffs or restrictions on products sold hereunder, or on the raw materials that are used in making such products. The prices for the Products include only Seller's usual quality processes, systems, and tests. In no event shall prices include any amounts imposed on the Buyer in connection with Buyer's purchases from Seller, such as taxes, including but not limited to Value Added Tax (VAT) or excise taxes, duties, tariffs, or any other costs assessed against the Buyer by a governmental authority. Buyer shall pay, or reimburse Seller for, the gross amount of any present or future sales, use, excise, income, value added or other similar tax applicable to the price, sale or furnishing of any services or products hereunder, or to their use by Seller or Buyer, or Buyer shall provide Seller with evidence of exemption acceptable to the taxing authorities

**II. DELIVERY** Delivery dates are approximate and are dependent on prompt receipt by Seller of all necessary information. Seller may deliver all or any part of Products/ Services as early as 30 days in advance of agreed schedule. The point of delivery shall be "FCA" Seller's facility (Incoterms 2020), unless otherwise specified by Seller. Title and risk of loss or damage to Products shipped by Seller shall pass to Buyer immediately after each item departs from the territorial land, seas, and overlying airspace of the United States. Title and risk of loss to all other Products shall pass when the product is made available for shipment at the point of shipment. Title to services shall pass pro rata

as the services are performed Where Buyer notifies Seller that it cannot take timely delivery of the Products, Seller may place such Products in storage, at the risk of Buyer, and Buyer shall reimburse Seller for all expenses incurred in connection with such storage. Products shall be prepared, packed and shipped by or on behalf of Seller in accordance with good commercial practices unless otherwise agreed by the parties. A complete packing list shall be enclosed with all shipments. Buyer agrees to reimburse Seller for any costs for any non-standard packing, marking or shipping directions contained in the Order. Buyer shall dispose of the packing materials for Products at its own expense, and shall defend, indemnify and hold harmless Seller from any legal obligations in connection with such packing waste.

### III. PAYMENT

A. The term of payment shall be net 30 days from date of Seller's invoice, unless otherwise specified. Payments shall be made by Buyer without any deduction or set-off. Unless otherwise agreed, payment shall be made in U.S. dollars. Seller may charge late payment fees at the rate of 1.5% per month, or the highest rate permitted by law, whichever is less, accruing daily.

B. Unless provided otherwise in Seller's quote, fifty percent (50%) of any non-recurring engineering charges ("NRE") shall be due and payable at acceptance of the Order or contract execution. The balance of such NRE (the "NRE Balance") shall be due and payable within thirty (30) days after completion of the NRE work. NRE amounts are determined in Seller's commercially reasonable discretion. In the event of a cancellation of the NRE contract or purchase order after commencement but prior to completion of NRE work, Seller shall be entitled to payment of a percentage of the NRE Balance equal to the percentage of NRE work completed prior to cancellation, as reasonably determined by Seller. All NRE charges are nonrefundable.

C. If the financial condition of Buyer is unsatisfactory to Seller, Seller may require full or partial payment in advance, or satisfactory security, in the form of a letter of credit or otherwise. In the event of bankruptcy or



insolvency of Buyer, Seller may immediately cancel any Order then outstanding.

D. Buyer grants Seller a purchase money security interest in Products located in the United States, or Services, as well as any proceeds, for the purpose of securing the obligations of Buyer hereunder. Buyer authorizes Seller to execute on Buyer's behalf and file such financing statements as Seller deems appropriate to perfect and notify Buyer's creditors of Seller's security interest.

**IV. VARIATIONS IN QUANTITY; CHANGES.** Buyer shall accept delivery of quantities greater or smaller than the quantity specified in Order(s), provided that any such variation shall not exceed 5% of the quantity originally specified, or 2 units, whichever is greater. Seller shall not be required to give notice of any such variations other than in the applicable shipping notice and invoice. Seller reserves the option to make changes to Products or Services which do not affect form, fit, or function, and shall deliver Products to the latest configuration part number at the time of delivery. No Order may be terminated in whole or part without Seller's prior express written consent, which consent shall be in Seller's sole discretion. Unless the parties agree otherwise in writing, the cancellation fee for any Order that Seller has agreed to terminate shall be as follows:

<b>Number of days prior to the scheduled shipment date that notice of cancellation is received by Seller:</b>	<b>Cancellation charge per unit (expressed as percentage of the catalog price):</b>
more than 90 days	25%
61-90 days	50%
31-60 days	75%
within 30 days	100%

Notwithstanding the foregoing, Orders for custom products or for last-time buys ("LTB") for end of life ("EOL") products, may not be cancelled, rescheduled, or returned. A "custom product" is any non-standard product developed by Seller under a special agreement or any product not appearing in Seller's standard product catalog. Seller shall determine, in its commercially reasonable discretion, if an Order is for LTB or EOL products.

**V. EXPORT CONTROLS; FCPA; UKBA; ANTI-BOYCOTT AND UKCFA**

A. Buyer shall not make any disposition of the Products, by way of transshipment, re-export, diversion or otherwise, except as applicable U.S. export laws and regulations may expressly permit, and other than in and to the ultimate country of destination specified on Order(s) or declared as the country of ultimate destination on Seller's invoices or in the End Use Statement that Buyer supplies Seller. Seller shall not be named as shipper or exporter of record or U.S. principal party-in-interest (USPPI) unless specifically agreed to in writing by Seller in which case, Buyer shall provide Seller with a copy of the documents filed by Buyer for Export clearance purposes. At Seller's request, Buyer shall supply end-use and end-user information to determine export license applicability. Failure of Buyer to comply with this section shall constitute a material default allowing Seller to cancel related Order(s) without liability.

B. Buyer warrants that it shall not violate or cause the Seller to violate the U.S. Foreign Corrupt Practices Act of 1977 (FCPA), as amended, the United Kingdom Bribery Act (UKBA) of 2010, as amended, or their respective implementing regulations in connection with Buyer's sale or distribution of the Products and/or Services, and that Buyer does not know or have reason to believe that any consultant, agent, representative or other person retained by Buyer in connection with the sale and/or distribution of Products/Services has violated, nor caused Seller to violate the FPCA and/or the UKBA. Where Buyer learns of or has reason to know of any violation of FCPA and/or UKBA in connection with the sale or distribution of Products/Services, Buyer shall immediately advise Seller.

C. Buyer further warrants that Buyer shall not violate or cause Seller to violate the U.S. Antiboycott Provisions of the U.S. Export Administration Regulations issued pursuant to the U.S. Export Administration Act of 1979, as amended, in connection with Buyer's purchase of Products/Services and that Buyer shall not request or require Seller to make statements or certifications against countries that are not subject to boycott by the U.S.

D. Buyer shall not facilitate tax evasion or fail to prevent tax facilitation in the UK or other countries in accordance with the requirements of the UK Criminal Facilitation Act (UKFCA).



## VI. WARRANTIES

A. Seller warrants to Buyer that Seller-branded products (“Seller Products”) and services (“Services”) sold will be free from material defects in material, workmanship and title and will materially conform to any mutually agreed upon specifications (or, if there are no such agreed specifications, the specifications provided by Seller). If such Seller Products or Services do not meet the foregoing warranties, and Buyer promptly notifies Seller thereof within the applicable warranty period set forth in section 1.2 below (other than for warranty of title) and returns such product to Seller pursuant to Seller’s applicable Repair and Replacement Policy, Seller will correct any such failure by reperforming any defective portion of the services, and, with respect to products, at its option, (i) by repairing any defective or damaged part or parts of the products, or (ii) by making available, FCA Seller’s facility or other point of shipment (Incoterms 2020) any necessary repaired or replacement parts. Inbound shipping charges to Seller, including associated taxes, duties, tariffs, etc., shall be paid by Buyer. Return (outbound) warranty repair shipping charges shall be paid by Seller to Buyer’s destination. If in Seller’s reasonable judgment such repair or replacing of products or reperformance of services is not practicable, Seller shall refund or credit monies paid by Buyer for such products or services or, with respect to services, furnish without charge services in an amount essentially equal to those which, in Seller’s sole judgment, would have been required for reperformance.

B. The warranty period for Seller Products shall be one (1) year from the date of shipment, except that the warranty for all replacement or repaired products shall be ninety (90) days from the date of shipment, or the termination of the warranty period with respect to the original product or part for which the replacement parts were supplied or the repairs were made during the original warranty period, if sooner. The warranty period for Services shall be ninety (90) days from the completion of the Services.

C. The warranties and remedies set forth herein are conditioned upon: (a) proper storage, installation, use and maintenance, and conformance with any applicable recommendations of Seller; (b) the absence of repairs, modifications or alterations not authorized by Seller; and (c) Buyer promptly notifying Seller of any defects and (if required), promptly making the product

available for correction, and Seller’s ability to reproduce and observe the claimed defect.

D. Seller warrants non-Seller manufactured products, including but not limited to personal computers, micro drives, rotary disks, compact flash, cables and accessories, etc., only to the extent that the manufacturer’s warranty allows Seller to transfer such manufacturer’s warranty to Buyer. Seller will pass through to Buyer any such warranties. Buyer’s sole remedy for breach of such warranty shall be the remedy offered by and available from the manufacturer, if any.

Seller shall have no liability, whether in contract, tort, negligence, or otherwise, to Buyer with respect to non-Seller manufactured products. Consumables (such as batteries, light bulbs, and the like), and failures due to consumables are excluded from all warranties.

E. Certain products hereunder may contain remanufactured subassemblies or parts which have been cleaned, refinished, inspected, and tested to new-product standards. The warranty for any such product will be as provided in this agreement or any applicable warranty of the third party manufacturer, if applicable.

F. The preceding paragraphs set forth the exclusive remedy for all claims based on failure of, or defect in, products or services sold hereunder, whether the failure or defect arises before or during the warranty period, and whether a claim, however instituted, is based on contract, warranty, tort (including negligence), strict liability or otherwise. Upon the expiration of the warranty period, all such liability shall terminate. **THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER WRITTEN, ORAL, IMPLIED OR STATUTORY. NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE SHALL APPLY. IN THE EVENT THAT SELLER IS UNABLE TO REPAIR OR REPLACE THE PRODUCT IN A TIMELY FASHION, OR ANY WARRANTY PROVIDED HEREIN OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE, CUSTOMER’S RECOVERY OF ANY DAMAGE OR LOSS SHALL BE LIMITED TO THE PRICE PAID FOR THE PRODUCT.**

VII. **PATENTS/INDEMNITY** A. If Buyer receives a claim that Products, or part thereof manufactured by Seller infringes a patent, Buyer shall notify Seller promptly in writing and give Seller information, assistance and exclusive authority to evaluate, defend and settle such



claim. Seller shall not be responsible for any compromise or concession made by Buyer without Seller's prior written consent. In case any Products are in such suit or claim are held to constitute such an infringement and the use for the purpose intended of said products is enjoined, Seller shall, at its expense and option, either procure for Buyer the right to continue using said products, or replace same with non-infringing products, or modify same so they become non-infringing, or remove the products and refund the purchase price (less reasonable depreciation for any period of use) and any transportation costs separately paid by Buyer. The foregoing states Seller's entire liability for patent infringement.

B. Seller shall have no liability under Section VII.A above if the infringement or claim is based in whole or in part upon (a) a product not of Seller's manufacture; (b) a Product manufactured to Buyer's design; (c) a modification of the Product not introduced or approved in writing by Seller; or (d) the interconnection or use of the product in combination with equipment, software or other devices not made or supplied by Seller. As to any such Product, Seller assumes no liability whatsoever for patent infringement and Buyer shall defend, indemnify and hold harmless Seller against third-party claims for infringement arising therefrom.

#### **VIII. LIMITATION OF LIABILITY**

The total liability of Seller on any claim, whether in contract, tort (including negligence of any degree and strict liability) or otherwise arising out of, connected with, or resulting from the manufacture, sale, delivery, resale, repair, replacement or use of any Products/Services, shall not exceed the price allocable to the Products/Services or part thereof which gives rise to the claim. **IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT, (INCLUDING NEGLIGENCE OF ANY DEGREE, STRICT LIABILITY OR PATENT INFRINGEMENT) OR OTHERWISE, SHALL SELLER, ITS AFFILIATES, EMPLOYEES, SUBCONTRACTORS, OR SUPPLIERS BE LIABLE FOR ANY LOSS OF PROFIT OR REVENUES, LOSS OF USE OF THE PRODUCTS OR SERVICES, OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, FACILITIES, SERVICES OR REPLACEMENT POWER, DOWNTIME COSTS OR CLAIMS OF BUYER'S CUSTOMERS FOR DAMAGES OR FOR ANY SPECIAL, PROXIMATE,**

**CONSEQUENTIAL, INCIDENTAL, INDIRECT OR EXEMPLARY DAMAGES EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND BUYER WILL INDEMNIFY SELLER, ITS EMPLOYEES AND SUPPLIERS AGAINST ANY SUCH CLAIMS FROM THE BUYER'S CUSTOMERS. IF THE PRODUCTS OR SERVICES BEING PROVIDED BY SELLER WILL BE FURNISHED BY THE BUYER TO A THIRD PARTY BY CONTRACT OR RELATE TO A CONTRACT BETWEEN BUYER AND A THIRD PARTY, BUYER SHALL OBTAIN FROM SUCH THIRD PARTY A PROVISION AFFORDING SELLER AND ITS SUPPLIERS AND/OR SUBCONTRACTORS THE PROTECTION OF THIS ARTICLE VIII.** If Buyer transfers title to, or leases Products sold hereunder to, or otherwise permits or suffers use by, any third party, Buyer shall obtain from such third party a provision affording Seller and its subcontractors/suppliers the protection of the preceding sentence. Any action against Seller must be brought within 18 months after cause of action accrues.

**IX. EXCUSABLE DELAYS** A. Seller shall not be liable for delays in delivery or failure to perform due directly or indirectly to causes beyond Seller's reasonable control including but not limited to: acts of God; war; terrorism; civil commotion; riots; embargoes; government regulations, export license denials; port congestion; acts of or failure to act on the part of Buyer or its agents/employees; fires; floods; sabotage; nuclear incidents; earthquakes; storms; epidemics; strikes; lockouts or other labor difficulties; shortages of or inability to timely obtain proper labor, materials, components, shipping space or transportation, fuel, supplies or power at current prices; or due to limitations imposed by the extent of availability of Seller's normal manufacturing facilities. B. If a delay excused per the above extends for more than 90 days and the parties have not agreed upon a revised basis for continuing providing Products/Services at the end of the delay, including adjustment of the price, then either party (except where delay is caused by Buyer, in which event only Seller) upon thirty (30) days' notice may terminate the Order with respect to the unexecuted portion of the Products/Services, whereupon Buyer shall promptly pay Seller its reasonable termination charges upon submission of Seller's invoices thereof.

#### **X. SOFTWARE/TECHNICAL/PROPRIETARY INFORMATION**

A. Buyer shall not acquire any rights to



any software which may be delivered with Products, except as granted by Seller. No schematics or source code shall be furnished, unless pursuant to a separate license as agreed by Seller. Any software (including firmware) provided hereunder shall be subject to separate software terms and conditions at Seller's discretion.

B. The purchase of Products shall not include any right to supply of technical information such as drawings or specifications, unless agreed upon by Seller.

C. Intellectual property rights (including copyrights, trademarks, patents and trade secrets) and proprietary information, including drawings, documents, technical data, reports, software, designs, inventions, schematics, logic diagrams, and manufacturing processes, and other technical information supplied by Seller in connection herewith and to all modifications thereto funded by or related to this Order (hereinafter called "Data"), shall remain Seller's sole property and shall be held in confidence by Buyer. Data shall not be reproduced, used or disclosed to others by Buyer without Seller's prior written consent. Upon completion of Order, Buyer shall promptly return all Data to Seller together with all copies or reprints thereof then in Buyer's possession or control, and Buyer shall thereafter make no future use, either directly or indirectly, of any Data or any information derived therefrom without Seller's prior written consent. The foregoing shall in no way obligate Seller to provide or supply Data.

**XI. DIES, TOOLS, PATTERNS** Seller's charges for dies, molds, patterns and the like represent the Buyer's proportionate cost thereof, it being expressly understood that they remain the property of Seller. Modifications

made to dies, molds, patterns and the like in order to manufacture Products shall be at the discretion of Seller.

## **XII. GENERAL**

A. The rights and obligations of the Buyer and Seller hereunder shall be governed in all respects by the law of the State of Florida, U.S.A. The exclusive forum for adjudication of any disputes shall be the federal or state courts of the State of Florida, and Buyer/Seller hereby consent to personal jurisdiction and venue in such courts in any proceeding. The United Nations Convention on the International Sale of Goods shall not apply.

B. These Terms and Conditions of Sale together with any other terms specifically agreed to in writing by Seller constitute the entire agreement between Buyer and Seller and supersede any prior or contemporaneous representations, agreements, proposals, warranties, or understandings, oral or written, express or implied. No waiver, modification, amendment, rescission or other change to these Terms and Conditions of Sale shall be binding unless specifically agreed to in writing by an authorized representative of Seller.

C. The invalidity, of any part hereof shall not affect the validity of the remainder. The failure of Seller to assert any right at any time hereunder shall not prevent Seller's subsequent assertion of the same or different rights.

D. Buyer may not assign this contract without the prior written approval of the Seller.

E. Seller reserves the right to subcontract any of its work to one or more subcontractors.

## **XIII. PROHIBITION FOR HAZARDOUS USE**

Products licensed or sold hereunder are not intended for application in, and shall not be used by Buyer in any life-support equipment or construction or application of a nuclear installation or in connection with use or handling of nuclear material or for any hazardous activity or critical application, where failure of a single component could cause substantial harm to persons or property, unless Products have been specifically approved for such activity or application. Seller disclaims all liability for loss or damage resulting from such unauthorized use and Buyer shall defend, hold harmless and indemnify Seller against any such liability, whether arising under breach of contract, warranty, tort (regardless of the degree of fault or negligence), strict liability or otherwise.



Where Seller approves the application of the Products in a nuclear facility, the Buyer shall, before such use or provision, arrange for insurance or governmental indemnity protecting the Seller against liability and hereby releases and agrees to indemnify the Seller and its suppliers for any nuclear damage, including loss of use, in any manner arising out of a nuclear incident, whether alleged to be due, in whole or in part to the negligence or otherwise of the Seller or its suppliers.

#### **XIV. STATUTORY REQUIREMENTS**

Seller reserves the right to make any changes in the general specifications of the Products which are required for the Products to conform to any statutory requirement.

#### **XV. GOVERNMENT CONTRACTS**

If Buyer is a U.S. Government entity or elects to sell products or services provided hereunder to the U.S. Government or to a contractor selling to the U.S. Government, the following provisions apply: (a) Buyer agrees that all products and services provided by Seller meet the definition of "commercial-off-the-shelf" (COTS) or "commercial item" as defined in FAR 2.101, and that the subparagraph terms of FAR 52.212-5(e) or FAR 52.244-6 (or, for orders from the U.S. Government, FAR 52.212-5 and FAR 52.212-4 with tailoring to the extent permitted by FAR 12.302 by replacing all paragraphs except those listed in FAR 12.302(b) with these Conditions of Sale), and (subject to subsection (f) below) DFARS 252.212-7001(c) or DFARS 252.244-7000, whichever are applicable, apply only to the extent applicable to COTS or commercial items and only as appropriate for the dollar value of this order; (b) with regard to any terms related to Buy American Act or Trade Agreements, the country of origin of products is unknown unless otherwise specifically stated in writing by Seller; (c) Buyer agrees that any services offered by Seller are exempt from the Service Contract Act of 1965 (FAR 52.222-41); (d) Buyer agrees that this sale is not funded, in whole or in part, by the American Recovery and Reinvestment Act unless otherwise set forth in a written agreement of the parties; (e) Buyer is solely and exclusively responsible for compliance with any other applicable statutes or regulations governing sales to the U.S. Government, and Seller makes no representations, certifications or warranties whatsoever with respect to the ability of its goods, services or prices to satisfy any such statutes and regulations, other than those contained

herein; and (f) Seller makes no representations, certifications or warranties whatsoever with respect to the ability of its goods to satisfy DFARS 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals. Only Federal Acquisition Regulation ("FAR") supplement clauses expressly accepted in writing by Seller shall be included or incorporated by reference herein. Seller shall not be bound by and makes no representation of compliance with any FAR or FAR supplement clauses that Seller shall not have expressly accepted in writing.

#### **XVI. INVOICE FRAUD PREVENTION**

Given the increased risk of invoice fraud, Buyer should treat any notification to change details of Seller's bank account with suspicion. Seller will not inform or instruct Buyer to make remittance or money transfers to any other beneficiary, address or bank account via email. Always verify a request to update records or change bank account information BEFORE implementing a change or completing the payment. Verify any requested changes by speaking to a known Seller representative.

#### **XVII. PERSONAL DATA PROTECTION**

A. Where Buyer is within the European Union, it shall comply with the EU General Data Protection Regulations (the "GDPR") relating to the disclosure, usage and storage of personal data received from Seller under or in connection with this Order. Where Buyer is not within the European Union, Buyer agrees that any personal data and information belonging to employees, agents, sub-contractors or directors working or acting on behalf of Seller and received under or in connection with this agreement, shall be: (a) handled in accordance with the GDPR, (b) only used in conjunction with this Order; (c) not passed to third parties; and (d) removed from any media storage devices and otherwise destroyed immediately upon expiry, completion or cancellation of this Order. B. Buyer agrees that detailed personal data regarding Buyer is being stored and processed in a central data center under the responsibility of Seller Systems, Inc. in the United States of America and may therefore be transferred outside of the European Union and – if applicable – is being held jointly with other Buyer data available within Seller or its affiliates. The data may be used for the purpose of marketing research about products and services of Seller, exclusively by Seller, its affiliates and/or its official sales channels.



Information on the stored data can be obtained and consent can be withdrawn at any time – a simple notice to Seller is sufficient.