

Detoronics Corp. Terms and Conditions of Sale (DF-101)

1. Applicability.

(a) These terms and conditions of sale (these “**Terms**”) are the only terms that govern the sale of the goods (“**Goods**”) by Detoronics Corp. (“**Seller**”) to the buyer named on the Purchase Order (as defined below) (“**Buyer**”). Collectively Buyer and Seller are referred to as the “**Parties**” and individually as “**Party**.”

(b) The accompanying purchase order (the “**Purchase Order**”) and these Terms (collectively, this “**Agreement**”) comprise the entire agreement between the Parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. This Agreement supersedes any of Buyer’s general terms and conditions of purchase regardless of whether or when Buyer has submitted its purchase order or such terms. Seller expressly rejects Buyer’s general terms and conditions of purchase, and fulfillment of Buyer’s order does not constitute acceptance of any of Buyer’s terms and conditions or serve to modify or amend these Terms. Acceptance of the Purchase Order by Buyer is a prerequisite to the purchase of the Goods and shall operate as an acceptance of these Terms which are expressly incorporated into the Purchase Order. Notwithstanding anything herein to the contrary, if a written contract signed by both Parties is in existence covering the sale of the Goods (“**Master Agreement**”), then the Master Agreement shall prevail to the extent of any inconsistency with these Terms. If there is no Master Agreement but there is a conflict between these Terms and the terms of the Purchase Order, the terms of the Purchase Order, if accepted by Seller, shall prevail.

(c) Seller hereby notifies Buyer that Seller is not listed under any Qualified Parts List (QPL) maintained by any governmental or regulatory authority. Buyer acknowledges and accepts that the Goods provided under this Agreement are not sourced from a QPL-listed supplier unless otherwise expressly agreed in writing by both Parties.

2. Delivery.

(a) The goods will be delivered within a reasonable time after the receipt of Buyer’s purchase order, subject to availability of the Goods. Delivery dates given by Seller are estimates only and are subject to shipping variations and requirements. Seller shall not be liable for any delays, loss, or damage in transit.

(b) Unless otherwise agreed in writing by the Parties, Seller shall deliver the Goods to the location listed by Buyer in the Purchase Order (the “**Delivery Point**”) using Seller’s standard methods for packaging and shipping such Goods. In the event that Buyer requests non-standard packaging and shipping for such Goods and Seller accepts such requests, Buyer shall bear all such additional costs incurred by Seller. Buyer shall be responsible for all loading costs and provide equipment and labor reasonably suited for receipt of the Goods at the Delivery Point. Buyer is responsible for fees associated with not taking timely delivery of the Goods, such as storage fees. All prices and shipping are FOB Seller’s factory in Santa Fe Springs, California.

(c) Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer's purchase order.

(d) No goods shall be turned for credit or replacement without prior consent and an approved Return Material Authorization (RMA) by Seller. All goods returned without such prior authorization will not be accepted by Seller and will be returned to the Buyer freight collect.

3. Title and Risk of Loss. Title and risk of loss pass to Buyer upon Seller shipping the Goods from its facility in Santa Fe Springs, California. Buyer may, in its sole discretion, acquire insurance for such shipping. As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title, and interest of Buyer in, to, and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the California Uniform Commercial Code.

4. Amendment and Modification. Except for Section 2(b), these Terms may only be amended or modified in a writing which specifically states that it amends these Terms and is signed by an authorized representative of each Party.

5. Inspection.

(a) Buyer shall inspect the Goods within ten (10) days of receipt ("**Inspection Period**"). Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods (as defined below) during the Inspection Period and furnishes such written evidence or other documentation as required by Seller. "**Nonconforming Goods**" means only the following: (i) product shipped is different than identified in the Purchase Order; or (ii) product's label or packaging incorrectly identifies its contents.

(b) If Buyer timely notifies Seller of any Nonconforming Goods, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods, together with any reasonable third-party shipping and handling expenses actually incurred and paid by Buyer in connection therewith. Buyer shall ship, at its expense and risk of loss, the Nonconforming Goods to Seller's facility located at Santa Fe Springs, California. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer, at Buyer's expense and risk of loss, the replaced Goods to the Delivery Point.

(c) Buyer acknowledges and agrees that the remedies set forth in Section 5(b) are Buyer's exclusive remedies for Nonconforming Goods. Except as provided under

Section 5(b), all sales of Goods to Buyer are made on a one-way basis, and Buyer has no right to return Goods purchased under this Agreement to Seller.

6. Price.

(a) All prices (the “**Prices**”) are valid for thirty (30) days after the date of the Purchase Order; provided, however that all prices are subject to change due to fluctuation in material or component prices. Any deviations after placement of order, such as changes in quantity or partial releases or changes in specifications or drawings, are subject to a price increase and/or additional freight charges.

(b) All Prices are exclusive of all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any governmental authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs, and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller’s income, revenues, gross receipts, personnel, or real or personal property or other assets. The Prices include standard packaging. The Prices exclude transportation and insurance costs which are the responsibility of the Buyer.

7. Payment Terms.

(a) Buyer shall pay Seller all amounts due within thirty (30) days after delivery. All payments hereunder shall be in US dollars and made by check, credit card, or ACH. Seller reserves the right to require pre-payment in its sole discretion.

(b) Seller hereby notifies Buyer that each shipment of Goods includes a Certification of Compliance. All other certifications, test or chemical reports, plating coupons, third party validations/tests, etc., will be subject to a service charge.

(c) Blanket Purchase Orders are valid as specified in this Agreement but may not exceed more than one (1) year from the original purchase order date. After the order has expired beyond the original completion date on the original order, Seller reserves the right, at the Buyer’s expense, to invoice and ship all remaining goods not yet obtained by Buyer per the order.

(d) Buyer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys’ fees. In addition to all other remedies available under this Agreement or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Goods if Buyer fails to pay any amounts when due hereunder and such failure continues for ten (10) days following written notice thereof. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller’s breach, bankruptcy, or otherwise.

8. Limited Warranty. Seller warrants to Buyer that:

(a) for a period of twelve (12) months from the date of shipment of the Goods (the “**Warranty Period**”), the Goods will materially conform to Seller’s published specifications in effect as of the date of shipment under the corresponding Purchase Order; and

(b) Buyer will receive good and valid title to the Goods, free and clear of all encumbrances and liens.

The warranties under this section do not apply where the Goods have been: (i) subjected to abuse, misuse, neglect, negligence, accident, abnormal physical stress or environmental conditions, use contrary to any instructions issued by Seller, or improper testing, installation, storage, handling, repair, or maintenance; (ii) reconstructed, repaired, or altered by anyone other than Seller or its authorized representative; or (iii) used with any third-party product, hardware, or product that has not been previously approved in writing by Seller.

9. Buyer’s Exclusive Remedy for Breach of Warranty. During the Warranty Period:

(a) Buyer shall notify Seller, in writing, of any alleged warranty claim within ten (10) days from the date Buyer discovers, or upon reasonable inspection should have discovered, such alleged claim (but in any event before the expiration of the applicable Warranty Period);

(b) Buyer shall ship the relevant Goods within ten (10) days of the date of its notice to Seller, at its expense and risk of loss, to Seller’s facility located at Santa Fe Springs, California for inspection and testing by Seller;

(c) If Seller’s inspection and testing reveals, to Seller’s satisfaction, that such Goods do not conform with the limited warranty set forth herein, Seller shall in its sole discretion, and at its expense (subject to Buyer’s compliance with this Section 9), either (i) repair or replace such Goods, or (ii) credit or refund the Price of such Goods less any applicable discounts, rebates, or credits; and

(d) If Seller exercises its option to repair or replace, Seller shall, after receiving Buyer’s shipment of such Goods, ship to Buyer, at Buyer’s expense and risk of loss, the repaired or replacement Goods to a location designated by Seller.

(e) Buyer has no right to return for repair, replacement, credit, or refund any Goods except as set forth in this Section 9. In no event shall Buyer reconstruct, repair, alter, or replace any Goods, in whole or in part, either itself or by or through any third party.

(f) **THIS Section 9 SETS FORTH THE BUYER’S SOLE AND EXCLUSIVE REMEDY AND SELLER’S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN Section 8.**

10. **WARRANTIES DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN Section 8, SELLER MAKES NO EXPRESS OR IMPLIED WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS,**

INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (c) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE. BUYER ACKNOWLEDGES THAT IT HAS NOT RELIED UPON ANY REPRESENTATION OR WARRANTY MADE BY SELLER, OR ANY OTHER INDIVIDUAL OR ENTITY ON SELLER'S BEHALF, EXCEPT AS SPECIFICALLY PROVIDED IN Section 8 OF THIS AGREEMENT.

11. Limitation of Liability.

(a) IN NO EVENT SHALL SELLER OR ANY OF ITS REPRESENTATIVES BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER SELLER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.

(b) SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL NOT EXCEED THE LESSER OF (A) THE TOTAL OF THE AMOUNTS PAID TO SELLER PURSUANT TO THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM AND (B) ONE HUNDRED THOUSAND DOLLARS (\$100,000).

12. Compliance with Law. Buyer shall at all times comply with all laws applicable to the operation of its business, this Agreement, Buyer's performance of its obligations hereunder, and Buyer's use of the Goods. Without limiting the generality of the foregoing, Buyer shall (a) at its own expense, maintain all certifications, credentials, licenses, and permits necessary to conduct its business relating to the purchase or use of the Goods and (b) not engage in any activity or transaction involving the Goods, by way of shipment, use, or otherwise, that violates any law.

13. Restrictive Covenants.

(a) Anti-Counterfeiting. Buyer shall not manufacture, distribute, or supply counterfeit Goods, nor knowingly procure or use counterfeit components in any Goods supplied under this Agreement, nor modify or remove Seller's identification markings or part number from the product/goods. Buyer shall implement reasonable measures and controls to detect and prevent the introduction of counterfeit Goods into the supply chain. In the event counterfeit Goods are discovered, Buyer shall immediately notify Seller in writing, cooperate fully in any investigation, and, at Seller's option, replace such Goods

at Buyer's expense. Seller reserves the right to audit Buyer's anti-counterfeiting procedures and records relating to the Goods supplied hereunder. Failure to comply with this provision shall be deemed a material breach of this Agreement.

(b) No Resale. Buyer acknowledges and agrees that the Goods purchased under this Agreement are intended solely for Buyer's own use and may not be resold, transferred, or otherwise distributed to any third party without the prior written consent of Seller. Any unauthorized resale or transfer of the Goods shall constitute a material breach of this Agreement, and Seller reserves the right to pursue all available remedies, including termination of this Agreement and legal action.

14. Termination.

(a) In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement and such failure continues for ten (10) days after Buyer's receipt of written notice of nonpayment; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

(b) Buyer acknowledges and agrees that orders for custom-made Goods, including any Goods manufactured to Buyer's unique specifications or requirements, are non-cancellable once the Purchase Order has been accepted by Seller. Buyer shall remain fully obligated to pay for all such custom Goods, regardless of any subsequent request to cancel, modify, or delay the order. No returns, credits, or refunds will be permitted for custom orders except as expressly provided under Section 9 regarding warranty claims.

15. Equipment. Unless otherwise specified on the relevant Purchase Order, any equipment (including fixtures, dies, and tools) which Seller constructs or is required by Buyer for use exclusively in the production of its Goods shall be and remain Seller's exclusive property and in Seller's possession and control. Seller shall identify such exclusive equipment on the relevant Purchase Order. If exclusion is not specifically stated in the Purchase Order, such equipment will be deemed to be non-exclusive. When Buyer makes no orders for parts to be made with any equipment, fixtures, dies, or tools for two (2) consecutive years, Seller may use or dispose of such equipment, fixtures, dies, or tools as Seller desires without liability to Buyer.

16. Export. Unless otherwise noted, the Purchase Order may include Munitions List Items (MLI) or Commerce Controlled List Items (CCLI). MLO/CCLI property is controlled by the U.S. Government and in many cases cannot be transferred (exported, sold or given) to a foreign country, a non-U.S. Citizen/National or a non-Permanent U.S. Resident without a valid State/Commerce Department export authorization. The Buyer shall determine what the applicable requirements may be and to obtain all necessary authorizations, licenses or approvals. The use, disposition, export and re-export of the Goods covered or included in the Purchase Order is subject to the provisions of law referenced in End-Use Certificate DLA Form 1822, DEC 2001, including but not limited to, the Arms Export Control Act (22 USC 2751et seq.);

Export Administration Act of 1979 (50 USC App. 2401 et seq.) as contained under Executive Order 12924; International Traffic in Arms Regulations (22 CFR 120 et seq.); Export Administration Regulations (15 CFR 730 et seq.); Foreign Assets Control Regulations (31 CFR 500 et seq.); and the Espionage Act (18 USC 793 et seq.).

17. Waiver. No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement by Seller operates or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder by Seller precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege by Seller.

18. Confidential Information. All non-public, confidential, or proprietary information of Seller, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as “confidential” in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller’s request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

19. Force Majeure. Neither Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted Party’s (“**Impacted Party**”) reasonable control, including, the following force majeure events (“**Force Majeure Events**”): (a) acts of God; (b) flood, fire, earthquake, epidemics, public health disasters, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) order or action by any governmental authority or requirements of law; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; (h) telecommunication breakdowns, power outages or shortages, lack of warehouse or storage space, inadequate transportation services, or inability or delay in obtaining supplies of adequate or suitable materials; and (i) other events beyond the reasonable control of the Impacted Party.

20. Assignment. Buyer’s rights, interests, or obligations hereunder may not be assigned, transferred, or delegated by Buyer without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.

21. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any

agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

22. No Third-Party Beneficiaries. This Agreement benefits solely the Parties to this Agreement. Nothing in this Agreement, express or implied, confers on any other person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

23. Governing Law; Jurisdiction. This Agreement is governed by, and construed in accordance with the laws of the State of California without giving effect to any conflict of laws provisions thereof. All legal proceedings shall be instituted in the state or federal courts of the State of California in Los Angeles County. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts.

24. Notices. All notices shall be in writing and addressed to the parties at the addresses set forth on the face of the Purchase Order or to such other address for either party as that party may designate by written notice. All notices must be delivered by nationally recognized overnight courier, or certified or registered mail (in each case, return receipt requested).

25. Severability. If any term or provision of this Agreement is determined to be invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.