



DU TECHNOLOGIES, INC.

STANDARD PURCHASE ORDER TERMS AND CONDITIONS

1. **CONTRACT.** The performance of this Purchase Order by Vendor shall constitute acceptance and agreement to a contract containing these terms and conditions (the “**Terms and Conditions**”). This Purchase Order constitutes the sale agreement between the parties, except for amendments agreed to in writing by both Buyer and Vendor, and supersedes all prior written understandings. If Vendor wishes to take exception to any of these Terms and Conditions, it shall do so in writing, and such exceptions shall become part of this contract only if accepted in writing by Buyer. The term “**Buyer**” means DU Technologies, Inc. and the term “**Vendor**” means the Vendor indicated on the face of the Purchase Order. The term “**goods**” means any and all materials, parts, products, machines, equipment, technical data, computer software, processes and other tangible items or documentary information furnished by Vendor under this Purchase Order. The term “**services**” means any and all technical assistance, support, maintenance, consultation, and other effort furnished by Vendor under this Purchase Order other than labor furnished in connection with the production of goods.

2. **PACKING.** (a) All goods shall be packed by Vendor in accordance with specifications provided by Buyer, or if no specifications are provided, as otherwise suitably packed in order to protect the goods fully during transportation and to secure the lowest transportation costs. The prices set forth in this Purchase Order include all charges for packing, crating and for transportation to the point of delivery indicated in this Purchase Order. When usual terms of tariffs do not include insurance, shipments must be forwarded and properly insured to their full sales price hereunder. Vendor shall reimburse Buyer for any expenses incurred by Buyer if Vendor fails to make shipments in accordance with Buyer’s instructions.

(b) A packing slip bearing a complete record of the shipment, including the number of the Purchase Order, is required with each shipment. Invoices, bills of lading or express receipts and packing lists must be mailed to Buyer within 24 hours following shipment. Each invoice must show the shipping route, quantity, prices, number of packages, serial numbers and the number of Buyer’s purchase order to which shipment applies. Payments and discounts shall be calculated from the date of receipt at Buyer’s office of the foregoing invoice, bills of lading or express receipts and packing lists.

3. **SHIPPING AND DELIVERY.** The terms of delivery are as stated on the face of this Purchase Order. The delivery dates, specifications and quantities are of the essence. If shipping or delivery dates are not specified in the Purchase Order, delivery shall be within a reasonable time. Shipments in greater or lesser quantity than ordered may be returned at Vendor’s expense unless written authorization is issued by Buyer. If Vendor’s deliveries fail to meet schedule, Buyer, without limiting its other rights or remedies, may either direct



expedited routing and charge excess costs incurred thereby to Vendor or cancel all or any part of this Purchase Order. Vendor agrees to promptly report to Buyer any delays in performance or shipment of goods or services covered by the Purchase Order.

4. INSPECTION. Buyer has the right to inspect all materials and goods at all times and places including during manufacture. Each item ordered will be subject to final inspection and acceptance by Buyer at the final destination notwithstanding that title may have been passed to Buyer, that Buyer may have made a prior payment or that Buyer or its customer may have performed some type of source inspection. Any inspection at Vendor's plant or elsewhere during manufacture, shall be provisional only, and shall not constitute final acceptance or be construed as a waiver of the foregoing right of inspection and approval or rejection after receipt of the articles by Buyer.

5. REMEDIES. Upon discovery by Buyer that the goods furnished by Vendor contain any defect or fail to conform to the warranties herein, Buyer shall have the right: (1) to have Vendor replace the faulty goods and be reimbursed by Vendor for all out-of-pocket costs; (2) to reject the goods and recover all freight, storage or other expenses, and be relieved of any payment for the purchase price therefor, or to recover the purchase price already paid; (3) to ship the rejected goods to Vendor, at Vendor's expense; (4) to require Vendor to remove the rejected goods; (5) if Vendor shall fail to remove the rejected goods within 15 days after written notice by Buyer to dispose of them in any manner Buyer may elect without liability to Vendor for the cost of such items; and (6) to cancel this Purchase Order in whole or in part. In addition, any additional costs incurred by Buyer due to rejected or revoked goods may be charged back to Vendor.

6. WARRANTY. (a) Vendor warrants that all goods and services furnished shall (i) be free from defects in material and workmanship, (ii) be of good merchantable quality, (iii) conform to applicable specifications, drawings and samples and (iv) be free and clear of all liens, encumbrances and interests of any third party, and that Vendor has good and marketable title to the same. Unless manufactured pursuant to design furnished by Buyer, Vendor assumes design responsibility and warrants all goods to be suitable for the purpose intended.

(b) The warranties of Vendor contained in this Purchase Order shall run to Buyer and each successive customer. All warranties shall survive any inspection, delivery, acceptance of or payment for the goods or services by Buyer. Payment for goods or acceptance of delivery shall not constitute an acceptance of such goods or waiver of any warranties. Buyer shall have the right to set-off amounts owing to Vendor against any amount owing from Vendor to Buyer.

7. INTELLECTUAL PROPERTY. To the extent that the goods delivered are not manufactured pursuant to designs originated by Buyer, Vendor guarantees that the sale or use of any goods provided, either alone or in combination with other materials, or the use of processes by Vendor hereunder, will not infringe or contribute to the infringement of any patent, service mark, trademark, trade name, copyright or other intellectual property of any third party.

8. INDEMNIFICATION. Vendor assumes all liability (i) for damage or injury of any kind to persons and property caused by or arising out of Vendor's product, (ii) incurred as a



consequence of any breach of any representation, warranty or covenant, (iii) incurred on account of alleged infringement of any intellectual property right, or (iv) resulting from any suit, settlement or judgment. If any claims or lawsuits for such damage, injury or breach be asserted, Vendor agrees to defend and indemnify Buyer, its directors, officers, agents and employees from all such claims and from any loss, cost, judgment, settlement or liability, including legal fees, that such parties may sustain and the defense of any such action which may be brought against such parties and to pay on behalf of such parties upon demand, the amount of any judgment or settlement entered against them.

9. **RISK OF LOSS.** Vendor shall bear all risk of damage to or loss of the goods specified herein until such goods have been delivered to Buyer. All risk of loss shall pass from Vendor to Buyer only when delivery has been completed.

10. **CHANGES.** Buyer may at any time, by written order, make changes within the general scope of the Purchase Order. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this Purchase Order, an equitable adjustment shall be made in the order price or the delivery schedule. Buyer will have the right to check all claims hereunder at any reasonable time by inspecting and auditing the records, facilities, work or materials of Vendor relating to this Purchase Order.

11. **CONFIDENTIAL INFORMATION.** All disclosures, drawings, specifications, patterns or other technical information furnished to Vendor by Buyer shall at all times remain the sole property of Buyer and are submitted in confidence upon the agreement that they shall not be disclosed to any third party, shall not be used by Vendor for any purpose not designated by Buyer and shall be returned to Buyer immediately upon Buyer's request.

12. **TERMINATION FOR DEFAULT.** (a) Upon the breach by Vendor under this Purchase Order and, subject to Buyer's rights contained in Sections 3 and 5 hereof, the failure of Vendor to cure a breach within 10 days after receipt of notice from Buyer, Buyer may cancel the whole or any part of the Purchase Order without liability except for completed goods delivered and accepted. With respect to finished, in-process or unfinished work under the Purchase Order, Buyer shall have the right to take full title to and possession of the work immediately upon notice to Vendor regardless of whether final price terms have been agreed upon.

(b) Upon: (i) the liquidation or dissolution of Vendor; (ii) the filing by Vendor of a petition in bankruptcy; (iii) the making by Vendor of an assignment of its assets for the benefit of its creditors; (iv) the consent by Vendor to the appointment of a receiver or trustee for all or a substantial part of its property or to the filing of a petition against it under bankruptcy laws; or (v) the adjudication of Vendor as a bankrupt, Buyer may terminate this Purchase Order immediately without liability, except for deliveries previously made or services theretofore performed, or for goods covered by this Purchase Order then completed and subsequently delivered in accordance with the terms of this Purchase Order.

13. **TERMINATION FOR CONVENIENCE.** Buyer may, at any time, terminate this Purchase Order, in whole or in part, for its convenience upon written notice to Vendor, in which



event, upon such receipt of notice, unless otherwise directed by Buyer, Vendor shall immediately discontinue all work and the filling of orders or orders for materials and supplies in connection with the performance of this Purchase Order, and shall proceed to cancel promptly all orders outstanding; and Buyer shall negotiate with Vendor an amount to be paid in full settlement for the reasonable and necessary expenses incurred directly incident to this Purchase Order up to the date of cancellation. Buyer, however, shall not be liable for any loss of profits on this Purchase Order or the portion hereof so cancelled.

14. ASSIGNMENT. This Purchase Order shall not be assignable by Vendor without the prior written consent of Buyer.

15. INSURANCE. Vendor shall procure, maintain and at all times continue in effect at its own expense, commercial general liability insurance including completed operation and products liability coverage with primary limits of not less than One Million Dollars per occurrence, combined single limit, for bodily injury, personal injury and property damage liability and excess or umbrella liability insurance with limits of not less than Three Million Dollars. That coverage shall name Buyer as an additional insured and further provide that the policies shall not be canceled or materially changed without 30 days' prior written notice to Buyer.

16. FORCE MAJEURE. Neither Party shall be liable for delay or default in the fulfillment of this Purchase Order due to act of God, riot, strike, war, act of terrorism, embargo, government interference or accident beyond its control. During any such delay by Vendor, Buyer may, by written notice, elect to purchase the goods or services elsewhere and, at Buyer's sole option, to reduce the quantity of goods or services deliverable hereunder. In the event of cancellation of this Purchase Order by Buyer, Buyer shall reimburse Vendor for expenditures actually made prior to notice of cancellation for labor and materials upon the authority of the Purchase Order.

17. REMEDIES; WAIVERS; SURVIVAL OF WARRANTIES. The rights and remedies reserved to Buyer shall be cumulative and additional to any other rights and remedies available at law or in equity. The failure of Buyer to insist upon performance or the waiver by Buyer of any breach of any terms or conditions of the Purchase Order shall not be construed as thereafter waiving such terms or conditions. Buyer's failure to object to provisions contained in any communication from Vendor shall not be deemed acceptance of such provisions or as waiver hereof. Vendor's warranties shall survive the completion or cancellation of this Purchase Order.

18. COMPLIANCE WITH LAWS. Vendor agrees to comply with all federal, state and local laws and regulations applicable to the production, sale and delivery of the goods.

19. GOVERNING LAW. This Purchase Order shall be construed under the laws of the State of New Jersey without giving effect to its conflict of law principles. In no event will the U.N. Convention on the International Sale of Goods apply. The venue for any dispute arising out of this contract shall be the state or federal courts within the State of New Jersey.