

DAC INTERNATIONAL

TERMS AND CONDITIONS FOR THE SALE OF GOODS

1. Applicability.

(a) These terms and conditions of sale (these “**Terms**”) are the only terms that govern the sale of the goods (“**Goods**”) by DAC International, Inc. (“**Seller**”) to you (“**Buyer**”). Notwithstanding these Terms, if an authorized representative of each party signs a written contract covering the sale of the Goods, the written contract will control to the extent it is inconsistent with these Terms. For avoidance of doubt, the President of Seller is the only representative authorized to vary these Terms by written contract, unless another person is authorized by the President of Seller in writing.

(b) The accompanying order acknowledgement (the “**Sales Confirmation**”) 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. These Terms prevail over any of Buyer’s general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer’s order does not constitute acceptance of any of Buyer’s terms and conditions and does not serve to modify or amend these Terms.

2. Delivery.

(a) The goods will be delivered in accordance with the schedule described in the Sales Confirmation. Seller will not be liable for any delays, loss or damage in transit.

(b) Unless otherwise agreed in writing by the parties, Seller will deliver the Goods to Seller’s facility in Carpinteria, California (the “**Delivery Point**”). Buyer will take delivery of the Goods within five (5) business days of Seller’s written notice that the Goods have been delivered to the Delivery Point. Buyer will be responsible for all loading costs and provide equipment and labor reasonably suited for receipt of the Goods at the Delivery Point.

(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 will pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer’s purchase order.

(d) If for any reason Buyer fails to accept delivery of any of the Goods on the date fixed pursuant to Seller’s notice that the Goods have been delivered at the Delivery Point: (i) risk of loss to the Goods will pass to Buyer; (ii) the Goods will be deemed to have been delivered; and (iii) Seller, at its option, may store the Goods until Buyer picks them up, and Buyer will be liable for all related costs and expenses (including, without limitation, storage and insurance).

(e) At Buyer’s request, Seller’s personnel will assist with making recommendations to Buyer for freight forwarding services, including by obtaining quotations for freight and insurance, and communicating with local representatives of the Buyer’s chosen freight forwarder to coordinate pickup of the Goods (“**Shipping Assistance**”). Buyer acknowledges and agrees that Seller’s provision of Shipping

assistance is for the convenience of Buyer only; that Buyer is solely responsible for evaluating and making all decisions about shipping, insurance, and related issues; and that Seller is in no way assuming any responsibility related to Shipping Assistance or Buyer's obligations to coordinate shipping.

3. Non-Delivery.

(a) The quantity of any installment of Goods as recorded by Seller on dispatch from Seller's place of business is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary.

(b) The Seller will not be liable for any non-delivery of Goods (even if caused by Seller's negligence) unless Buyer gives written notice to Seller of the non-delivery within five (5) business days of the date when the Goods would in the ordinary course of events have been received.

(c) Any liability of Seller for non-delivery of the Goods will be limited to replacing the Goods within a reasonable time or adjusting the invoice respecting such Goods to reflect the actual quantity delivered.

4. Shipping Terms. Delivery will be made Ex Works Carpinteria, California at Seller's facility.

(a) Title and Risk of Loss. Title and risk of loss passes to Buyer upon delivery of the Goods at the Delivery Point. As collateral security for the payment of the Price(s), 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 and replacements or modifications, 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.

(b) Amendment and Modification. These Terms may only be amended or modified in a writing that specifically states that it amends these Terms and is signed by an authorized representative of each party.

5. Inspection and Rejection of Nonconforming Goods.

(a) Buyer will inspect the Goods within five (5) business days of receipt ("**Inspection Period**"). Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Seller. "**Nonconforming Goods**" means only the following: (i) product shipped is different than identified in Buyer's purchase order; or (ii) product's label or packaging incorrectly identifies its contents.

(b) If Buyer timely notifies Seller of any Nonconforming Goods, Seller will, 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 shipping and handling expenses incurred by Buyer in connection therewith. Buyer will ship, at its expense and risk of loss, the Nonconforming Goods to Seller's facility located at Carpinteria, California. If Seller exercises its option to replace Nonconforming Goods, Seller will, 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 7(b) are Buyer's exclusive remedies for the delivery of Nonconforming Goods. Except as provided under Section 7(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) Buyer will purchase the Goods from Seller at the prices (the "**Prices**") set forth in the Sales Confirmation.

(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 will be responsible for all such charges, costs and taxes; provided, that, Buyer will 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.

7. Payment Terms.

(a) Buyer will pay a non-refundable deposit as set forth in the Sales Confirmation, and will pay all additional invoiced amounts due to Seller on receipt of Seller's invoice and before shipment of the Goods. Buyer agrees to make all payments hereunder by wire transfer and in US dollars, provided that Seller may authorize another form of payment, potentially with a surcharge compensating Seller for the additional cost of the transaction, in Seller's sole discretion.

(b) Buyer agrees to pay a late fee of four percent (4%) of any payment not received by Seller within sixty (60) days of the date such payment is due, provided that if such a late fee is prohibited by applicable law, Buyer will instead pay the highest fee allowed by applicable law. Buyer agrees to reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller will be entitled to suspend the delivery of any Goods if Buyer fails to pay any amounts when due hereunder and such failure continues for sixty (60) days following written notice.

(c) Buyer will 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.

(a) Seller warrants to Buyer that for a period of one (1) year from the date of shipment of the Goods ("**Warranty Period**"), under normal use and recommended service by an authorized service provider, the Goods will be (i) free from material defects in material and workmanship; and (ii) software created by Seller that is incorporated into the Goods, if any, will be free from improper performance caused by software bugs or improper code. For avoidance of doubt, "normal use" includes a standard number of hours of operation per day.

(b) EXCEPT FOR THE WARRANTY SET FORTH IN SECTION 10(A), SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING

ANY (I) WARRANTY OF MERCHANTABILITY, OR (II) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

(c) Products manufactured by a third party (“**Third Party Product**”) may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Goods. Third Party Products are not covered by the warranty in Section 10(a).

(d) The Seller will not be liable for a breach of the warranty set forth in Section 10(a) unless: (i) Buyer gives written notice of the defect, reasonably described, to Seller within ten (10) business days of the time when Buyer discovers or ought to have discovered the defect; (ii) Seller is given a reasonable opportunity after receiving the notice to examine such Goods and Buyer (if requested to do so by Seller) returns such Goods to Seller’s place of business at Seller’s cost for the examination to take place there; and (iii) Seller reasonably verifies Buyer’s claim that the Goods are defective.

(e) The Seller will not be liable for a breach of the warranty set forth in Section 10(a) if: (i) Buyer makes any further use of such Goods after giving such notice absent Seller’s express permission; (ii) the defect arises because Buyer failed to follow Seller’s oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods, including failure to follow the maintenance and check-out instructions or failed to properly complete periodic warranty inspections, if detailed in the operating manual for the relevant Good; or (iii) Buyer alters or repairs such Goods without the prior written consent of Seller.

(f) Subject to this Section 8, with respect to any Goods during the Warranty Period, Seller will, in its sole discretion, either: (i) provide the Buyer with necessary parts and instructions to complete the repair (with such parts warranted in accordance with Section 10(g) below), or if parts and instructions are not sufficient, with a software or service engineer (with Buyer responsible for payment of travel expenses for such engineer) to repair or replace the Goods (or the defective part, or the faulty software) or otherwise make necessary adjustments or calibrations, or (ii) credit or refund the applicable Price provided that, if Seller so requests, Buyer will, at Seller’s expense, return the Goods to Seller. Any parts or software provided by Seller in accordance with this Section 10 will allow the Goods to function in a materially equivalent manner under normal use, but may or may not be the same as the defective part or software, in Seller’s discretion. During the Warranty Period, if Seller replaces a faulty part that failed due to a cause covered by the warranty in this Section 8, Seller will provide a credit to Buyer for the returned part at its standard list price in accordance with the following schedule:

- (i) Parts returned within 30 days will receive 100% credit.
- (ii) Parts returned after 30 days but within 40 days will be assessed a 20% re-stocking fee.
- (iii) Parts returned after 40 days but within 60 days will be assessed a 50% re-stocking fee.
- (iv) No returns will be accepted more than 60 days after a replacement part is provided.

(g) All parts sent to Buyer pursuant to Section 8(f) will be sent via standard carrier, in Seller's discretion. Special transportation may be available at Buyer's request and cost. Any parts will be subject to the warranty described in Section 10(a) for the longer of (i) the remainder of the one-year warranty period applicable to the Goods originally shipped, or (ii) 90 days.

(h) If any Good (or any component thereof) becomes, or in Seller's opinion is likely to become, the subject of an infringement claim, Seller may do nothing, or may, at its option and expense, either (i) procure for Buyer the right to continue using the allegedly infringing Good, or (ii) replace or modify the Good so that it becomes non-infringing and remains functionally equivalent. This Section states Seller's entire liability and Buyer's sole and exclusive remedy for infringement claims and actions.

(i) THE REMEDIES SET FORTH IN SECTION 10(F) WILL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 10(A).

9. Limitation of Liability; Indemnification.

(a) IN NO EVENT WILL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

(b) IN NO EVENT WILL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY GOOD, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE RELEVANT GOODS SOLD.

(c) The limitation of liability set forth in Section 11(b) above will not apply to liability resulting from Seller's gross negligence or willful misconduct.

(d) Buyer agrees to indemnify and hold Seller harmless from any and all claims, damages, losses, and expenses, including attorney's fees and costs (including on appeal) from a claim by a third party arising or alleged to arise from the Goods purchased pursuant to this Agreement, including from injury to persons or to property, due to (i) Buyer's use of the Goods, including in manufacturing products for end users; (ii) Seller's adherence to specifications provided by Buyer to Seller in the manufacture of the Goods or development of related software; (iii) failure by Buyer to maintain the Goods in accordance with the use practices identified by Seller; (iv) failure by Buyer to notify Seller of any known defect or alleged defect in material, workmanship, or software; or (v) any breach of any representation, warranty, or other term or condition of this Agreement. Seller will indemnify, defend and hold harmless Buyer at its own expense in and for any action against Seller brought by a third party to the extent that the action is based upon a claim that Seller has engaged in gross negligence or willful misconduct in the provision of the Goods. The foregoing obligations are conditioned on the indemnified party notifying the indemnifying

party

promptly in writing of such action, the indemnified party giving the indemnifying party sole control of the defense thereof and any related settlement negotiations, and the indemnified party cooperating and, at the indemnifying party's reasonable request and expense, assisting in such defense.

10. Compliance with Law. Buyer will comply with all applicable laws, regulations and ordinances. Buyer will maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. Buyer will comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Buyer. Buyer assumes all responsibility for shipments of Goods requiring any government import clearance. Seller may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.

11. Termination. 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; (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.

12. 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 operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

13. Confidential Information. All non-public, confidential or proprietary information of Seller, including but not limited to specifications, samples, patterns, designs, software, code, 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 will promptly return all documents and other materials received from Seller. Seller will 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.

14. Intellectual Property. Buyer acknowledges the ownership and validity of Seller's trademarks, brand names, trade names, designs, copyrights, patents, software, and similar intellectual property (collectively "Intellectual Property") and agrees not to apply for the registration of Intellectual Property in any country. Buyer will immediately notify Seller in writing of any potential infringement of Seller's Intellectual Property by other parties.

15. Force Majeure. Seller will not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage, provided that, if the event in question continues for a continuous period in excess of ninety (90) days, Buyer will be entitled to give notice in writing to Seller to terminate its purchase of Goods.

16. Assignment. Buyer may not assign any of its rights or delegate any of its obligations under this Agreement 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.

17. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement will 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 will have authority to contract for or bind the other party in any manner whatsoever.

18. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or will confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

19. Governing Law. All matters arising out of or relating to this Agreement is governed by and construed in accordance with the internal laws of the State of California without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than those of the State of California. The International Chamber of Commerce's Incoterms 2020 Rules will apply but where they conflict with these Terms, these Terms will prevail.

20. Submission to Jurisdiction. Any legal suit, action or proceeding arising out of or relating to this Agreement will be instituted in the federal courts of the United States of America or the courts of the State of California in each case located in the County of Santa Barbara, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

21. Notices. All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") will be in writing and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing. All Notices will be delivered by personal delivery,

nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission), email (without rejection), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party; or in the case of email or facsimile, without rejection during normal business hours; or in the case of mail, two days after appropriate deposit if domestic, or five days after appropriate deposit if international, and (b) if the party giving the Notice has complied with the requirements of this Section.

22. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

23. Survival. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement.