

# Terms and Conditions

The sale of products and services (“products”) by R3 IT Solutions LLC, R3 Services Group and their divisions and subsidiaries (“R3”) are subject to these terms and conditions (“agreement”) regardless of other or additional terms or conditions that conflict or contradict this agreement in any purchase order, document, or other communication (“order”). Preprinted terms and conditions on any customer (“customer”) document (for example: purchase orders or confirmations) and/or R3 Failure to object to conflicting or additional terms will not change or add to the terms of this agreement.

## 1. ORDERS

All Orders are subject to acceptance by R3. R3 reserves the right to allocate the sale of Products among its customers. Orders for special, custom, value-added and Products specifically identified by R3 as non-standard are non-cancelable and non-returnable (“NCNR”). The Customer may not cancel or reschedule Orders for standard Products without R3 consent, which shall not be unreasonably withheld.

## 2. PRICES

R3 quoted prices apply for 30 days or as otherwise stated in its quote. R3 may increase prices if R3 costs increase or other circumstances beyond R3 reasonable control. Prices are subject to change at any time. Prices are for Products only and do not include taxes, impositions and any other charges, fees, shipping charges and duties imposed by any government authority. Customer is responsible for any additional fees and taxes.

## 3. TERMS OF PAYMENT

Payment of the total invoice amount, without offset or deduction, is due 30 days from the invoice date, unless specified otherwise on a valid R3 quotation. International purchases (purchases made by customers outside of the USA) are to be paid in full by wire transfer at the time of the order. On any past due invoice, R3 may charge interest from the payment due date to the date of payment (at 1 1/2% per month), plus reasonable attorney fees and collection costs. R3 may change the terms of Customer’s credit at any time. R3 may apply payments to any of Customer’s accounts.

## 4. DELIVERY AND TITLE

Customer is responsible for all shipping costs and any applicable surcharges. Title and risk of loss pass to Customer upon delivery of the Products to the carrier. R3 delivery dates are estimates only and R3 is not liable for delays in delivery. R3 reserves the right to make partial shipments and Customer will accept delivery and pay for the Products delivered. A delayed delivery of any part of an Order does not entitle Customer to cancel other deliveries.

## 5. PRODUCT RETURNS

Customer cannot return Products without a return material authorization (“RMA”) number. RMAs will be issued only for damage, shortage, or other discrepancy to Products created solely by R3 or the original manufacturer, and only if Customer notifies R3 in writing of any damage, shortage, or other discrepancy to Products within 10 days after delivery. RMAs will not be granted for damage, shortage, or other discrepancy created by Customer, the carrier or freight provider, or any other third party. Returned Products must be in original manufacturer’s shipping cartons or equivalent. Customer must return all Products, freight prepaid, as specified in the RMA and pay any restocking charges. At R3 discretion, R3 will return all Products not eligible for return to Customer, freight collect, or hold Product for Customer’s account at Customer’s expense.

## 6. LIMITED WARRANTY

R3 will transfer to Customer any Product warranties and indemnities authorized by the manufacturer, including any transferable warranties and indemnities for intellectual property infringement. R3 warrants

the Products will conform to the manufacturer's specifications. Value-added work performed by R3 on Products will conform to Customer's specifications. R3 MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED. R3 MAKES NO WARRANTY OF MERCHANTABILITY, FITNESS FOR PURPOSE OR NON-INFRINGEMENT. If Products do not meet manufacturer's specifications or if value-added work by R3 does not meet Customer's specifications the Products will be, at R3 choice: (1) repaired, (2) replaced at no cost to Customer; or (3) refund Customer's purchase price. Customer must return Products to R3, along with acceptable proof of purchase, within the warranty period specified by the manufacturer freight charges prepaid.

## 7. LIMITATION OF LIABILITY

R3 IS NOT LIABLE FOR AND CUSTOMER IS NOT ENTITLED TO ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES; FOR EXAMPLE, LOSS OF PROFITS OR REVENUE, LOSS OF DATA, LOSS OF USE, REWORK, MANUFACTURING EXPENSE, INJURY TO REPUTATION, OR LOSS OF CUSTOMERS. CUSTOMER'S RECOVERY FROM R3 FOR ANY DIRECT DAMAGES WILL NOT EXCEED THE PRICE OF THE PRODUCT AT ISSUE. CUSTOMER WILL INDEMNIFY, DEFEND AND HOLD R3 HARMLESS FROM ANY CLAIMS BASED ON; (i) R3 COMPLIANCE WITH CUSTOMER'S DESIGNS, SPECIFICATIONS, OR INSTRUCTIONS, (ii) MODIFICATION OF ANY PRODUCTS BY ANYONE OTHER THAN R3, OR (iii) USE IN COMBINATION WITH OTHER PRODUCTS.

## 8. FORCES BEYOND R3 CONTROL

R3 is not liable for failure to fulfill its obligations for any accepted Order or for delays in delivery due to causes beyond its reasonable control, (for example: acts of God, acts or omissions of the Customer, man-made or natural disasters, epidemic medical crises, materials shortages, strikes, acts of terrorism, delays in transportation, or inability to obtain labor or materials through its regular sources).

## 9. USE OF PRODUCTS

Products are not authorized for use in critical safety or other applications where a failure may reasonably be expected to result in personal injury, loss of life, or catastrophic property damage. If Customer uses or sells the Products for use in any such applications, Customer acknowledges that such use or sale is at Customer's sole risk. Customer will indemnify, defend and hold R3 and the Product manufacturer harmless from and against any and all liabilities and costs arising out of or in connection with such use or sale.

## 10. EXPORT/IMPORT

Certain Products sold by R3 and other related technology and documentation are subject to export control laws, regulations and orders of the United States and the export or import control laws and regulations of other countries. Customer will not directly or indirectly export or divert any Products and other related technology and documentation to any third party or country where such export or transmission is restricted or prohibited. Customer agrees it is responsible to obtain any license to export, re-export, or import as may be required.

## 11. PRODUCT INFORMATION

Product information, including information related to a Product's specifications, export/import control classifications, uses or conformance with legal or other requirements, is obtained by R3 from its suppliers or other sources. Such information is provided by R3 on an "AS IS" basis. R3 makes no representation as to the accuracy or completeness of the Product information, and DISCLAIMS ALL REPRESENTATIONS, WARRANTIES AND LIABILITIES UNDER ANY THEORY WITH RESPECT TO THE PRODUCT INFORMATION, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. R3 recommends Customer validate any Product Information before using or acting on such information. All Product information is subject to change without notice. R3 is not responsible for typographical or other errors or omissions in Product information.

## 12. GOVERNMENT CONTRACTS

R3 is a distributor of "Commercial Items" as defined in FAR 2.101.

A. R3 hereby advises that it will only operate under FAR 52.244-6 when fulfilling a subcontract for a government prime contractor. Therefore, the following FAR clauses are incorporated by reference and made a part of any such subcontract or order to the extent that these clauses are applicable.

- 52.219-8 Utilization of Small Business Concerns
- 52.222-26 Equal Opportunity
- 52.222-36 Affirmative Action for Workers with Disabilities
- 52.222-39 Notification of Employee Rights Concerning Payment of Union Dues
- 52.247-64 Preference for Privately Owned U.S. Flag Commercial Vessels

B. If the subcontract is issued in support of a DOD prime contract the following additional clauses are incorporated by reference and made a part of any such subcontract or order to the extent that these clauses are applicable:

- DFARS 252.247-7023 Transportation of Supplies by Sea
- DFARS 252.247-7024 Notification of Transportation of Supplies by Sea

C. In accordance with FAR 12.211 the Customer will receive only those rights in technical data customarily provided by R3 supplier. By no means will this be interpreted as providing to the Customer unlimited rights in data, software, or intellectual property rights provided by R3 supplier or any other third party.

D. R3 hereby rejects the flow down of the requirements of the: (i) Trade Agreements Act, FAR 52.225-5 or DFARS 252.225-7021; and (ii) the Buy American Act, FAR 52.225-1 or DFARS 252.225-7001. There is an exception to the Buy American Act for “information technology” that applies to many of the products sold by R3 Technology Solutions business. However, Customer is solely responsible for determining if an exception exists.

E. R3 cannot comply with Preference for Domestic Specialty Metals, DFARS 252.225-7014, Alt. 1, unless one of the following conditions is met: 1) its product manufacturers indicate they can comply; 2) an existing Domestic Non-Availability Determination (DNAD) applies; or 3) there is an applicable exception. However, Customer is solely responsible for determining if a DNAD or an exception exists.

## 13. ELECTRONIC ORDERS

In the event that any part of the purchase and sale of Products utilizes electronic data interchange, internal or third party portal, or any other electronic means (“Electronic Purchase Order”), this Agreement, or any other validly executed agreement between R3 and Customer, will continue to apply to the purchase and sale of Products between Customer and R3.

## 14. GENERAL

A. The laws of the State of Georgia will exclusively govern any dispute between R3 and Customer without reference to Georgia’s conflict of laws principles. The United Nations Convention for the International Sale of Goods shall not apply.

B. Customer may not assign this Agreement without the prior written consent of R3. R3 or its affiliates may perform the obligations under this Agreement. This Agreement is binding on successors and assigns.

C. This Agreement can only be modified in writing signed by authorized representatives of both R3 and Customer.

D. R3 and Customer are independent contractors and agree that this Agreement does not establish a joint venture or partnership.

E. Statements or advice (technical or otherwise) if given without charge, are an accommodation to Customer and R3 has no responsibility or liability for the content or use of such statements or advice.

F. R3 failure to object to any document, communication, or act of Customer will not be deemed a waiver of any of these terms and conditions.

G. The unenforceability of any of these terms or conditions will not affect the remainder of the terms or conditions.

H. Products, including software or other intellectual property, are subject to any applicable rights of third parties, such as patents, copyrights and/or user licenses.

I. Customer and R3 will comply with applicable laws and regulations.