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## **Vadatech, Inc. Order Acknowledgement Terms and Conditions**

This document constitutes the terms and conditions for the Contract (“Contract”) between VadaTech, Inc. (“VadaTech”) and Buyer (“Buyer”), and VadaTech’s acceptance of Buyer’s award is expressly limited to these terms and conditions. Additional or differing terms of any kind put forth by Buyer, whether, for example, on the face of a purchase order, incorporated by reference in a purchase order or subcontract, in a statement of work or specification, or on Buyer’s website, are rejected and have no effect unless accepted in writing by VadaTech’s Chief Executive Officer or General Counsel.

This Contract integrates all prior and contemporaneous offers and understandings and constitutes the entire bargain between VadaTech and Buyer.

### **1. VadaTech Shipping and Payment Terms**

Shipping terms are FCA Origin; payment terms are NET 30 days from the date of the invoice.

### **2. Termination for Default or Convenience**

If this is a Contract under a federally funded U.S. Government prime contract, 48 CFR 52.249-8 is incorporated by reference; replace “Government” and “Contracting Offer” with “Buyer” and “Contractor” with “VadaTech.” Termination for convenience is prohibited under this Contract.

### **3. Excusable Delay**

The following events constitute excusable delay under this Contract: (i) acts of God or of a public enemy; (ii) acts of Government; (iii) fires; (iv) floods; (v) epidemics; (vi) quarantine restrictions; (vii) strikes; (viii) freight embargoes; (ix) delay in obtaining, due to causes beyond VadaTech’s reasonable control, suitable labor, materials, or facilities and, (x) unusually severe weather. VadaTech agrees to promptly notify Buyer about an excusable delay condition.

### **4. Choice of Law; Venue**

All matters arising from or related to this Contract will be interpreted under the laws of the State of Nevada, excluding its choice of law rules. VadaTech and Buyer agree to submit to the personal and exclusive jurisdiction of the courts located within the county of Clark County, Nevada, USA, to resolve any dispute or claim arising from this Contract.

### **5. New Materials from Authorized Sources**

For all goods delivered, VadaTech agrees to use only new and authentic materials purchased directly from OEMs, OCMs, or their authorized distributor(s), and, if requested, provide documentation authenticating traceability to the authorized source(s), unless otherwise agreed.

### **6. Set Off Prohibited**

Buyer may not set off any amount payable to VadaTech.

### **7. Intellectual Property Rights**

Software (“Software”) includes Boot ROM code, embedded software, and third-party software that came installed on the VadaTech product, as well as any updates, upgrades, bug fixes, or modified



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versions. VadaTech and Buyer agree that source code will not be delivered under this Contract or any deferred ordering clause (e.g., DFARS 252.227-7067/7027).

**(a) License**

Subject to VadaTech's Standard Commercial License for Commercial Computer Software and the terms of this Contract, VadaTech grants Buyer a limited, nonexclusive, non-transferable license to use the Software on the VadaTech product on which it was originally installed. Buyer may not distribute the Software. This license grants Buyer no rights in any VadaTech proprietary interfaces or other intellectual property of VadaTech. General Limitations. The preceding is a license, not a transfer of title, to the Software, documentation, interfaces, content, and any data that came with the VadaTech product, for use only under the terms of this Contract. VadaTech and its licensors, if any, retain ownership of all the preceding, and reserve all rights not expressly granted to Buyer. Buyer may not, and Buyer agrees not to enable others to, copy (except as otherwise permitted here), decompile, reverse engineer, disassemble, attempt to derive the source code of, decrypt, modify, or create derivative works of the VadaTech goods or Software or any part thereof (except as and only to the extent any foregoing restriction is prohibited by applicable law or by licensing terms governing use of open-source components that may be included with the Software).

**(b) U.S. Government End Users**

Any Software and related documentation are "Commercial Items", as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. VadaTech Order Acknowledgement, Rev. A, March 2019 §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users under the terms and conditions herein. Any unpublished rights are reserved under the copyright laws of the United States.

48 CFR § 52.227-19 is rejected and is not made part of this Contract.

Unless otherwise agreed, VadaTech and Buyer agree that VadaTech will not deliver any technical data under this Contract. If technical data is delivered by VadaTech, the parties agree that Buyer (and the U.S. Government) acquires only the technical data and rights in that data, if any, customarily provided by VadaTech to the general public.

**8. Proprietary Information**

Reserved; subject to a separate non-disclosure agreement between VadaTech and Buyer.

**9. VadaTech's Repair/Replace Warranty and Disclaimer of Warranties**

VadaTech warrants that the goods delivered will be free from defects in workmanship and materials, and conform to the technical requirements of Buyer's statement of work and/or specification as agreed on.

Warranty period for board-level products is two years from shipment; chassis-level products is one year from shipment. Warranty for non-VadaTech product shall be the manufacturer's warranty to the extent manufacturer permits transfer of such warranty to the Buyer. The warranty period for all

replaced or repaired products is 90 days from shipment or the remainder of the original warranty, whichever is longer.

The preceding assumes that Buyer (i) properly stored, installed, used, maintained, and otherwise conformed with any recommendation by Vadatech, (ii) did not repair, modify, or alter the item, or authorize another to do any of the preceding; and (iii) promptly notifies VadaTech of any defect.

Inbound shipping charges to VadaTech, including associated taxes, duties, tariffs, etc., shall be paid by the Customer. Return (outbound) warranty repair shipping charges shall be paid by VadaTech Inc. to the Customer's destination. For international shipments, inbound and outbound, customer shall bear responsibility for all local duties, tariffs, etc. and all local customs clearance procedures and costs.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE GOODS AND SOFTWARE ARE OTHERWISE PROVIDED "AS IS" AND VADATECH DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE GOODS AND SOFTWARE, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS.

#### **10. Changes**

If this is a Contract under a federally funded U.S. Government prime contract, FAR 52.243-1 is incorporated by reference; replace "Contracting Officer" with "Buyer" and "Contractor" with "VadaTech."

#### **11. Furnished Property**

If this is a Contract under a federally funded U.S. Government prime contract, any loss or damage to Buyer-furnished property will be determined per 48 CFR § 52.245-1.

#### **12. Assignment**

VadaTech or Buyer may freely and without restriction assign, in whole or part, any rights, obligations, and/or duties under this Contract, to any financially viable successor in interest.

#### **13. Waiver and Severability**

Failure of VadaTech to enforce any provision of this Contract will not be construed as a waiver. The remedies reserved will be cumulative and additional to any other remedies in law or equity. Each clause, paragraph and subparagraph of this Contract is severable.

#### **14. Indemnity Disclaimer**

Buyer agrees that VadaTech does not assume or otherwise undertake any indemnity obligation under this Contract.

#### **15. LIABILITY LIMITATION**

TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT WILL VADATECH BE LIABLE FOR PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, CORRUPTION



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OR LOSS OF DATA, FAILURE TO TRANSMIT OR RECEIVE ANY DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO THIS CONTRACT, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF VADATECH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.