

DCE Sales and Service

Terms & Conditions, US / Canada

Digital Cutting Experts, LLC ("DCE")
DL-100 v.3

This document is expressly for the purposes of outlining in further detail, crucial terms like goods/services description, price, payment, delivery, warranties, and dispute resolution, ensuring clarity and legal enforceability for any transaction between parties.

1) Provision of Services

- a) Digital Cutting Experts, LLC ("DCE") will provide the support services described herein or subsequently added to these terms in accordance with the conditions contained herein. DCE shall perform services in a professional manner and in accordance with generally recognized commercial practices and standards.

2) Orders

- a) Customer may at any time issue orders for services or add products to be serviced.
- b) All orders issued will be subject to acceptance by DCE.

3) Charges

- a) Prices are exclusive of use, sales, and other taxes. When applicable, such taxes will appear as a separate item on DCE's invoice. Customer will pay such taxes unless Customer provides DCE with a tax exemption certificate acceptable to taxing authorities.
- b) DCE may adjust service rate charges once per year provided that DCE makes such rates available in writing accessible to any and all involved parties, either directly or indirectly in any manner of communication including but not limited to a hyperlink contained within documentation or documentation directly provided by DCE.
- c) Charges for services will be invoiced at DCE's current service rate(s) with the applicable modifier to hourly rates dependent on the service request priority set by Customer with the expected time to resolution, dictated by *DCE List Pricing Info DF-101*.
- d) If Customer cancels an order for special products or services, Customer may be subject to an additional charge. Special products or services are items not listed on DCE's current price list, items manufactured or configured to Customer's unique requirements, or items special-ordered for the Customer.
- e) Any equipment sale, or service approved and sold with payments to be made in monthly installments will be subject to recurring billing on the day of the month at which the Agreement is dated by one (1) of three (3) methods:
 - (i) ACH Payment *or*
 - (ii) Check *or*
 - (iii) Credit Card
- f) ACH and Check payments *must* be accompanied by a credit card on file. The Customer is responsible for scheduling ACH or Check payments to be made by the monthly due date indicated in the payment plan or financing document provided by DCE and signed by both DCE and Customer. In the event timely payment is not made, DCE will charge the credit card on file for the payment agreed to within five (5) days of the scheduled due date. In the event ACH and Check payments are late more than two (2) times, remaining payments will be charged to the Credit Card on file or additional interest not above 20% added at the discretion of DCE.
- g) Credit Card payments will be made automatically, and scheduled on the date agreed upon during the purchase of equipment or requested services completion date (date of invoice).

4) Scope of Service

- a) DCE shall provide Customer hardware technical, operational technical, and parts ordering support by telephone for *Eligible Products* between the hours of 7:00 AM and 5:00 PM U.S. Central Time, exclusive of weekends and DCE's regular holidays at then current service rate(s) outlined in DF-101.
- b) DCE shall provide Customer software technical support for *Eligible Products* between the hours of 7:00 AM and 5:00 PM U.S. Central Time, exclusive of weekends and DCE's regular holidays at then current service rate(s) outlined in DF-101.
- c) DCE shall provide Customer on-site emergency remedial maintenance between the hours of 8:00 AM and 5:00 PM local time, exclusive of weekends and DCE regular holidays. Response times vary depending on personnel availability, Customer account standing, service scheduling, and Customer Expert Service agreement holdings, DCE shall not be liable for delay in service due to circumstances beyond its reasonable control, including, but not limited to, Acts of God, strikes, lack of transportation and weather conditions. [All service invoiced at time and materials, at then current service rate(s) outlined in DF-101]
- d) Replacement Parts: Except as provided herein below, replacement parts for defective equipment components shall be provided by DCE at no additional charge for those parts covered under DCE's warranty or service agreement, if Customers account is held in good standing. Consumable parts (i.e. those parts consumed during normal operation of the product or those parts purchased by the Customer for use while maintaining the product) and defective parts that are no longer covered by DCE's warranty shall be replaced only upon Customer request and at DCE's then current list price. Replacement parts shall be new or refurbished to like-new condition and priced accordingly.

5) Payment

- a) Charges for support or services provided by DCE to Customer shall be invoiced thirty (30) days in advance for the applicable support/service period. Any other charges shall be invoiced as incurred and in accordance with DCE List Pricing Info DF-101. Estimates are approximate calculations only, are not guarantees, and do not bind DCE. All invoices under this Section are based on DCE's actual time and materials actually expended and/or actually incurred in performing the applicable services, as applicable.
- b) Customer shall pay each invoice within thirty (30) days from the date of the invoice (the "Due Date"). DCE reserves the right to change these credit terms at any time upon written notice to Customer if, in DCE's opinion, Customer's financial condition or previous payment record so warrants.
- c) If Customer fails to pay any amount due to DCE under an invoice on or before the Due Date, then after ten (10) days' written notice to Customer (during which Customer may cure by paying the overdue amount in full), and unless full payment is received within such ten (10) day period, DCE shall have the right, without limiting any other rights or remedies available to DCE under the applicable Agreement or at law, to:
 - (i) suspend further performance under any Agreement between DCE and Customer;
 - (ii) offset amounts owed by Customer against deposits or amounts paid in advance by Customer, whether under the applicable Agreement or any other Agreement;
 - (iii) discontinue all maintenance, warranty, and support services to Customer under these terms or under any other Agreement;
 - (iv) charge late fees on the overdue amount equal to one and one-half percent (1.5%) per month (or the maximum amount allowed by law, if less), accruing from the Due Date until the date payment is received in full;
 - (v) charge Customer for DCE's reasonable time and effort in remediation and/or collection, including reasonable internal labor costs and reasonable out-of-pocket costs (and, to the extent permitted by law, reasonable attorneys' fees) incurred as a result of Customer's failure to pay when due; and;
 - (vi) Purchase or request of service by Customer constitutes Customer's grant of a security interest to DCE in all of Customer's right, title, and interest in the equipment installed, serviced, or for which Customer requests services from DCE, to the extent necessary for DCE to secure Customer's prompt payment of the invoiced price. The secured amount is the price reflected in the final invoice and/or the price for services provided pursuant to an issued purchase order or Customer's request for services;
 - (vii) Customer further grants DCE the right to file one (1) UCC Form 1—Financing Statement with the applicable state UCC filing office and/or with the applicable county recorder's office in the Customer's governing state/county to provide notice of DCE's security interest in the equipment;
 - (viii) Upon Customer's payment in full of the remaining balance of the final invoice to DCE, DCE will release its security interest and terminate any UCC filings that were made, if any.

6) Eligible Products

- a) "Eligible Products" include the products, equipment, and standard configurations covered by these terms, as identified by DCE in the applicable order, estimate, service request, or other written notice.
- b) "Licensed Computer Programs" means the computer programs (and related materials) provided by DCE to Customer, whether delivered on media, embedded in the equipment (or similar), or made available electronically, and includes all documentation and any updates or program portions furnished by DCE in connection with such equipment or programs. If any part of the software is licensed to DCE by third parties, the third-party license terms that accompany that software shall apply.
- c) Eligible Products must be in baseline operating condition and at the current specified revision level to be eligible for service. If DCE determines that an Eligible Product is not in baseline operating condition or not at the required revision level, DCE may treat any request as a billable service engagement to restore the product to baseline operating condition and/or update it to the required revision level, unless otherwise specifically agreed in writing.
- d) Any work performed by DCE to restore Eligible Products to normal operating condition, or to update them to the current required revision level agreed to by DCE and Customer according to these terms, will be performed at DCE's then-current standard service rates, unless a different rate is expressly stated in a written price quotation or service authorization.
- e) Customer shall ensure that all safety functions applicable to the Eligible Products are operational at the time of any inspection, service, operation, or start-up.
- f) If any safety function is not operational, Customer shall promptly bring the Eligible Products back to baseline safety configuration prior to operator use to support operator safety, in accordance with applicable OSHA requirements and any relevant industry safety standards.
- g) DCE will not be responsible for service outcomes or delays caused by Customer's failure to maintain safety functions in operational condition or to restore them to baseline prior to operator use.
- h) DCE may refuse service requests on any Eligible Products which have been noted to be without functional safety features in accordance with OSHA standards.

7) Modifications to Products

- a) DCE may, at no additional charge, make modifications to the Eligible Products to improve their operation and/or reliability. Conformity to specific state or local regulations codes and ordinances are not included in these Terms, any Agreement or amendment unless specifically agreed to in writing between the parties.

8) Copyrighted Materials

- a) DCE copyrighted materials, printed or digital documentation and media, are made available to DCE Customers and may not be copied for archival purposes, to replace a defective copy, or distributed internally. Unless otherwise agreed to in writing by DCE, DCE copyrighted material may not be distributed externally by Customers under any circumstance. Title to and ownership of all such documentation thereto shall at all times, remain with DCE or DCE's suppliers.

9) Warranty

- a) DCE warrants its replacement parts against defects in materials and workmanship for 60 days. If DCE receives notice of such defects during the term post replacement acceptance, DCE, will, at its option, repair or replace replacement parts which prove to be defective. Replacement parts are new or equivalent to new. DCE's liability under these terms shall be limited to the supplying of required replacement parts and service, and upon the expiration or termination of any Agreement, all such liabilities shall terminate. In no event shall DCE be liable for special or consequential damages, including, but not limited to, loss of production or profits due to downtime.
- b) The foregoing warranty will not apply to defects resulting from:
 - (i) Improper or inadequate maintenance by Customer;
 - (ii) Customer-supplied software or interfacing;
 - (iii) Unauthorized modification or misuse of the Eligible Products;
 - (iv) Operation outside of the environmental specifications for the Eligible Products; or
 - (v) Improper site preparation and maintenance.

- c) In addition to these Terms and Conditions, any Agreement, Amendment or DCE document outlining parts not covered under warranty is agreed to by any of the following conditions; Acceptance of these Terms, request of service, requested purchase from DCE, or otherwise. Updates to DCE documentation will be distributed at the time the documentation is made official, or updated within the customer portal or located on Digital Cutting Experts website for customer review.
- d) THERE ARE NO WARRANTIES, WHICH EXTEND BEYOND THOSE DESCRIBED HEREIN IN PARTICULAR, DCE MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

10) Remedies and Liability

- a) For any breach of these terms or any Agreement or amendment by DCE, Customer's remedy shall be limited to refund of support charges paid by Customer during the period of breach up to a maximum of three (3) months service charges or payments for the products at issue.
- b) In connection with the work to be performed under these terms, any Agreement or amendment, DCE shall, under no circumstances, be responsible directly or indirectly for any damage to equipment or adjacent property of the Customer, or for injury or death to persons, except where such damage, injury or death is directly and solely attributable to DCE's negligence.
- c) DCE shall not be liable for the workmanship and the acts or omissions to act of the employees, contractors, subcontractors or agents of Customer.
- d) DCE shall not be liable, in any event, for any loss or injury to persons or property (including the product installed or to be serviced) caused by: the negligence or fault of the Customer, its employees, materialmen, or of their employees, agents or subcontractors; the failure of Customer to observe the instructions of DCE's Representative(s) or DCE's instruction manual; or the failure or malfunctioning of any tools, equipment, facilities or devices not furnished by DCE.
- e) THE REMEDIES PROVIDED HEREIN ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES. IN NO EVENT SHALL DCE OR ITS SUBCONTRACTORS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS) HOWEVER BASED.

11) Customer Indemnification of DCE

- a) Customer shall defend, indemnify and hold DCE harmless from and against any and all third-party losses, claims, costs, expenses, damages and liabilities, including reasonable attorney's fees, which DCE may suffer or be required to pay, arising out of injury (or death) to persons or damage to property, resulting from or pertaining to the Eligible Products caused by the negligence or misconduct of Customer, its agents, employees, independent contractors or invitees.

12) Limitations of Service

- a) DCE provides service for Eligible Products. Hardware products and software products not supplied or approved by DCE, and products for which Customer does not allow DCE to incorporate engineering improvements will be considered non-Eligible Products. Customer is responsible for removing non-Eligible Products to allow service of Eligible Products. If performance of service is made more difficult because of a non-Eligible Product, DCE will invoice Customer for the increased labor at DCE's standard service rates.
- b) Services to repair damage to Eligible Products caused by the following shall be provided by DCE at an additional charge at DCE's standard service rates:
 - (i) Use of non-DCE media and supplies or such items not designed for use with the products;
 - (ii) Site conditions that do not conform to DCE's specifications, or failures resulting from non-conformance with DCE's site specifications such as air conditioning failure or unusual electrical conditions; and
 - (iii) Accident, natural disasters, fire or water damage, neglect, improper use, acts of war, riots, strikes, lightning or electrical disturbances, damage during transportation by Customer, work performed or modification made by personnel other than DCE employees or subcontractors, or other causes beyond DCE control.
- c) Services do not include refinishing the product or furnishing materials for that purpose, electrical work external to the products, routine daily customer maintenance, including, but not limited to, cleaning of the room, exterior of the product surfaces and routine cutter maintenance as defined by DCE, or replacement of operating supplies and consumables.

13) Customers' Responsibilities

- a) Customer shall:
 - (i) Provide DCE service personnel with operating supplies used during normal operation;
 - (ii) Be responsible for security of Customer's proprietary and confidential information and for maintaining a procedure external to the products for reconstruction of lost or altered files, data or pro-grams;
 - (iii) Have a representative present at Customer's site at all times when services are being performed by DCE on site or by telephone;
 - (iv) Notify DCE of any NFPA 70 violations or if any product serviced is being used in an environment which poses a potential health hazard to DCE personnel. DCE may require such products to be maintained by Customer under DCE supervision; and
 - (v) Maintain the Eligible Products noted in these terms, any Agreement or amendment, in a room environment that will meet the temperature and humidity requirements specified for the products.
- b) For upgrades involving replacement of parts or components, Customer shall transfer ownership of removed parts or components to DCE, and Customer will return the removed parts or components within thirty (30) days of delivery of the upgrade. Customer agrees to pay DCE the fair market value for each defective/repairable part or component which Customer fails to return to DCE within each thirty (30) day period. If Customer is not the owner of the product being upgraded, Customer will obtain permission of the owner and any lien holder to install the upgrade and transfer ownership of removed parts or components to DCE.
- c) Any electrical or mechanical technicians of Customer or its contractors or affiliates performing maintenance in any manner to Eligible Products within these terms, any Agreement or amendment shall be full time employees of Customer who are trained and certified by DCE for said products.
- d) Customer shall be liable and make timely payment for all parts orders it places with DCE within thirty (30) days *or* as noted on any special agreement DCE has made with the Customer or specified within the payment terms of the individual invoice.
- e) With respect to equipment, Customer is responsible for performing certain routine, periodic maintenance activities as specified in the documentation accompanying such equipment and agrees to allow DCE to conduct Quality Workmanship inspections as deemed necessary to verify the quality of Customer's maintenance.
- f) Customers agree before scheduling a service call with DCE's service engineer to notify DCE that Eligible Products under these terms are suitably located and properly mounted and connected. Customer further agrees to provide suitable space and working environment at the site of the Eligible Products covered within these terms, any Agreement or amendment to permit DCE's service engineer to perform, and to make access to the plant and the Eligible Products immediately available, subject to customer's normal security requirements. Customer agrees to be liable and make payment for charges that DCE may separately assess against Customer for such delays of access.
- g) Customer is responsible for payment of all services rendered by DCE in accordance with the applicable payment options, pricing, and invoicing terms in these Terms & Conditions and any related invoice, estimate, service authorization, or agreement and invoiced at industry standard time and materials.
- h) Customer agrees that all travel expenses incurred by DCE in performing the services (including, where applicable, transportation, lodging, meals, per-diem and other reasonable travel-related costs) will be passed through to Customer, consistent with standard service-industry practices, and will be itemized on the applicable invoice.
- i) DCE will invoice travel expenses in accordance with the invoicing timing and payment due dates set forth in these Terms & Conditions (including Section 5, Payment), and Customer will pay such charges within the applicable due period noted on the invoice, standard is Net30 unless another agreement has been made between Customer and DCE.

14) Export Regulations

- a) Customer will not export or re-export DCE products or technical data provided in violation of the applicable export regulations. DCE may suspend services under these terms, any Agreement or amendment if Customer deals with the products and technical data in violation of the applicable export regulations.

15) Term and Termination

- a) The terms and conditions of this or any Agreement or amendment shall begin on the effective date of site acceptance, service request, or initiation of communication for service, and shall end upon termination by either party, based on the terms herein.
- b) DCE may, at its election, terminate Services immediately and/or cancel any unfilled portion of service (without regard to the ordered services) by written notice to customer if:
 - (i) Customer becomes bankrupt or insolvent or enters into any arrangements or composition with its creditors or if a receiver is appointed to direct the business of Customer, or if Customer sells or assigns a majority of its assets or merges or consolidates with another firm, corporation or entity so that the resulting entity has a lessor net worth or diminish credit worthiness; or
 - (ii) Customer has committed a material breach of any of the terms and conditions herein and fails to cure such breach in a timely manner to DCE's satisfaction, including but not limited to, failure by Customer to make timely payments and the use of parts, materials, labor or operating procedures that have not been approved by DCE that cause damage of increased maintenance costs to be incurred for the Eligible Products.
 - (iii) If DCE so terminates Services, DCE may, without limiting or waiving any other remedies available to it, offset in whole or in part its resulting damages by retaining Customer's advance payments, if any.
- c) Either party may terminate this partnership upon sixty (60) days prior written notice. In the event of any such termination Customer shall be responsible for immediate payment in full to DCE for all charges incurred and accrued by Customer to date including but not limited to recovery of interest, or equipment, tools, supplies etc.

16) Miscellaneous

- a) Any notice required or permitted hereunder shall be deemed to have been properly signed and received upon the passage of ten (10) days after deposit in the mail, prepaid, registered, and return receipt requested to the address of each party set forth in the attachments hereto or to such other address as either party may substitute by notice to the other.
- b) DCE's failure to exercise or enforce any of its rights hereunder will not constitute a waiver or forfeiture of such rights.
- c) No U.S. government procurement regulations will be included hereunder and binding on either party unless specifically agreed in writing prior to incorporation herein.
- d) These terms, any Agreement or amendment shall be governed and construed in accordance with the laws of the State of Wisconsin without regard to the principles or applications of its choice of law rules. DCE and Customer agree that the state or federal courts nearest to Milwaukee, Wisconsin, shall be the sole and exclusive jurisdiction and venue for the adjudication of any and all disputes between the parties hereunder or otherwise.
- e) No waiver, alteration or modification of any of the provisions hereof shall be binding unless approved in writing by a duly authorized representative of DCE and Customer.
- f) These terms and conditions and any attachments will constitute the entire agreement between the parties relating to transactions hereunder and will supersede any previous communication, representation or agreement by either party, whether oral or written. Customers' additional or different terms will not apply. Customer's purchase of products or services hereunder will constitute acceptance by Customer of this Agreement.
- g) DCE and Customer submit to the personal jurisdiction of both the state or federal courts nearest to Milwaukee, Wisconsin for the adjudication of any dispute relating to these Terms, any Agreement or Amendment and the services provided hereunder, including without limitation, any disputes relating in any way to the validity, interpretation or performance of these Terms, any Agreement or Amendment or to the relationship whether direct or indirect, between the parties hereto.
- h) The foregoing terms and conditions and the referenced exhibits shall constitute the entire agreement between the parties, and no understanding or obligations not expressly set forth herein are binding upon them.
- i) In the event that a provision or provisions of these Terms, any Agreement or Amendment shall be construed to be invalid or unenforceable for any reason, such invalidity or unenforceability shall not be deemed to affect the remaining provisions hereof, and these Terms, any Agreement or Amendment

shall be construed and enforced as if such invalid or unenforceable provision or provisions had never been inserted herein.

- j) The headings or titles of the paragraphs of these Terms, any Agreement or Amendment are not a part of these Terms, any Agreement or Amendment and are not intended to aid in the construction of any provision hereunder.
- k) The failure of either party to enforce, at any time or for any period of time, the provisions of these Terms, any Agreement or Amendment, will not be interpreted as a waiver of such provisions or of the right of such party to there-after enforce each and every provision. Commencement of performance and/or delivery under these Terms, any Agreement or Amendment will not be considered to be acceptance of Customer's additional or different terms and conditions, which will be of no force or effect whatsoever.
- l) Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of supply chain delays, strikes, shortages, riots, insurrections, fires, floods storm, explosions, act of God, war, governmental action, labor or material shortages or any other cause which is beyond the reasonable control of such party. The foregoing provisions regarding force majeure shall not operate to delay or excuse payment of any amounts due DCE from Customer.

17) Assignment

- a) Any assignment or attempted assignment by either party, in whole or in part, of its rights or obligations under these Terms, any Agreement or Amendment (other than the right to receive payments) or any other interest in these Terms, any Agreement or Amendment without the other party's prior written consent shall be void except that no such consent shall be required for an assignment by DCE to another organization substantially controlled by DCE, or to any organization which is the successor in interest to the business of DCE.
- b) Notwithstanding the foregoing, DCE reserves the right to subcontract any or all of the work to one or more subcontractors.

18) Order of Precedence

- a) These Terms, any Agreement or Amendment and any attachments hereto take precedence over Customer's additional or different terms and conditions and constitute the entire understanding between the parties relating to transactions hereunder. Acceptance by Customer is limited to DCE's terms and conditions. Notice of objection is hereby given to Customer's additional or different terms and conditions. Neither DCE's commencement nor completion of performance shall be deemed or construed as acceptance of Customer's additional or different terms and conditions. An order for service will constitute acceptance by Customer of the terms of the current exhibit for that service at the time of order.

19) Entitlements

- a) Specific entitlements, including service levels and response times under these Terms, any Agreement or Amendment, are incorporated by reference therein.

20) Additional Terms & Conditions

- a) DCE may cover discontinued products that are beyond their specified support periods on a best effort basis.
- b) DCE shall charge Customer for services under these Terms, any Agreement or Amendment at the rate(s) at the start of any service term pursuant to the charges listed in DCE's then current price book.

Thank you for trusting DCE with your service needs!