



**RBB SYSTEMS, INC.**  
**STANDARD TERMS AND CONDITIONS OF SALE**

**1. SCOPE:** All products and services offered for sale by RBB Systems, Inc. (hereinafter "RBB") are sold subject to the terms and conditions stated herein. This offer expressly limits acceptance to the terms hereof and any additional, different or inconsistent terms proposed by CUSTOMER, whether in writing or otherwise, are hereby objected to and rejected and RBB shall not be bound unless expressly agreed in writing signed by RBB that such terms and conditions supersede those contained herein.

**2. PROPOSALS:** Written proposals are submitted by RBB for acceptance within 30 days from the date of issuance, or unless otherwise specified in the proposal. Should the CUSTOMER issue an appropriate purchase order, said purchase order shall be deemed to incorporate the entire RBB-submitted quotation, including all of the terms and conditions herein.

**3. PURCHASE ORDERS:**

**A. General.** All purchase orders received are subject to acceptance by an authorized agent of RBB. All such orders are considered bona fide commitments, showing complete description of services, equipment, quantity, price, and shipping date required by CUSTOMER.

**B. Delivery Reschedules.** CUSTOMER may reschedule all or part of a scheduled delivery unless shipment is scheduled within (4) four weeks. Repeated rescheduling is subject to extra fees. Extended rescheduling requests for which materials have been received may be subject to a stocking charge.

**C. Order Revisions.** Requests for revisions made to existing orders after production has begun will be considered by RBB. Adjustments to the unit pricing will be made to reflect changes in raw material and labor costs associated with the revision, as well as "bill back" of volume discounts, as described in Section 14(B). Such orders will be placed on hold status until revisions can be safely made and CUSTOMER'S written approval for consequential cost impact can be secured.

**4. PRICES:** Prices are based on the specifications and quoted quantities and include RBB standard packaging. The additional price of tooling, stencils, and other non-recurring engineering activities will be identified. Prices shall remain fixed for the term set forth in the proposal, subject to RBB's right to revise prices to account for any variations on the market prices of components, parts and raw material (collectively "Components"), including any such variations resulting from (i) market shortages and (ii) a change in the specifications or quantities ordered.

**5. CONTRACT TERMS:** The terms of a proposal when accepted in writing by the CUSTOMER and approved by RBB shall, along with these standard terms and conditions, constitute the entire agreement between the parties, and no oral or other representation or agreement exists outside the terms of the proposal.

**6. PAYMENT TERMS:** Payment terms are net thirty (30) days after the date of invoice. On any invoice not paid by maturity date, CUSTOMER shall pay interest from maturity to date of payment at the rate of 1.5% per month.

**7. TAXES:** RBB's prices do not include sales, use, excise or other taxes. In addition to the contract price, the CUSTOMER agrees to pay all sales, use, excise, and other taxes which may be levied, assessed, or imposed upon the products or the sale thereof, at any time at or after delivery thereof at the F.O.B. point to the carrier or CUSTOMER. If any such taxes which have been collected by RBB from the CUSTOMER and paid to the taxing authorities are thereafter held inapplicable, RBB will refund the same to the CUSTOMER only to the extent that the same has been refunded to RBB by the taxing authority. If the CUSTOMER is exempt from the payment of any specific tax which would otherwise be applicable, it shall be the duty of the CUSTOMER to furnish RBB with the proper exemption certificates.

**8. ORDERS AND FORECASTS:** CUSTOMER purchase orders may be rescheduled only in accordance with Section 3(B) herein. Additionally, CUSTOMER may furnish RBB with a non-binding forecast which may be used by RBB in the ordering of long lead time components.

**9. PRODUCT DELIVERY/PURCHASE ORDER EXPIRATION:**

**A. Single Purchase Orders.** Product purchased on a single purchase order will be shipped to meet delivery dates set out by the CUSTOMER and agreed to by RBB unless delayed by circumstances set out in Section 16 herein.

**B. Blanket Purchase Orders.** Product purchased under a blanket purchase order will be shipped to meet delivery dates as indicated by release dates provided by CUSTOMER and accepted by RBB. CUSTOMER will provide scheduled release dates for a maximum of (6) six months.

**10. LONG LEAD TIME ITEMS, MINIMUM/MULTIPLE BUYS:** CUSTOMER acknowledges that RBB often must place orders for Components well in advance of the CUSTOMER'S delivery date. RBB's proposals include a list of Components with long lead times and minimum order quantities. CUSTOMER acknowledges that third-party vendor lead times are subject to change and agrees to be financially responsible for all long lead time Components purchased in accordance with the vendor's then-current lead times. CUSTOMER further acknowledges that RBB will be required to order Components in accordance with the various minimum buy quantities, tape and reel quantities, and multiples of packaging quantities required by the vendor, and agrees that it shall be financially responsible for all such Components.

**11. RESIDUAL INVENTORY:** If 12 months pass without additional orders for a specific assembly, RBB shall advise CUSTOMER in writing of any excess/obsolete Components in its inventory and the delivered cost of such Components. CUSTOMER shall pay for all Components within (60) days of such written notification. Options for resolution include: (a) a new purchase order is issued, (b) payment is made for all residual inventory secured to manufacture the quantity set out in the purchase order, or (c) CUSTOMER shall assume warehousing/storage expenses for



any completed product and parts inventory remaining at the expiration of the blanket purchase order at a cost and for a length of time to be negotiated between RBB and the CUSTOMER.

**12. INDEMNIFICATION:** CUSTOMER shall indemnify, defend, and hold RBB and RBB's affiliates, shareholders, directors, officers, employees, contractors, agents and other representatives harmless from all demands, claims, actions, causes of action, proceedings, suits, assessments, losses, damages, liabilities, settlements, judgments, fines, penalties, interest, costs and expenses incurred (including reasonable attorney fees) of every kind (i) based upon personal injury or death or damage to property to the extent any of the foregoing is proximately caused either by (a) a defective product (including strict liability in tort) or (b) the negligent or willful acts or omissions of CUSTOMER or its officers, employees, subcontractors or agents; (ii) based on any breach of these terms and conditions, and (iii) arising from or relating to any actual or alleged infringement or misappropriation of any patent, trademark, mask work, copyright, trade secret or any actual or alleged violation of any other intellectual property rights arising from or in connection with the products, except to the extent that such infringement exists as a result of RBB's negligence or intentional wrongful activity.

**13. ENGINEERING CHANGES:** Engineering Change Orders (ECOs) are required for changes to drawings, plans, designs, procedures, test specifications, or the Bill of Materials. Any such changes may affect RBB's material and/or labor costs, prices, and/or delivery schedules. RBB reserves the right to charge an administrative fee in an amount not to exceed \$1,000 per ECO.

**14. CUSTOMER CANCELLATION:**

**A. Cancellations.** Any request for order cancellation by CUSTOMER must be made in writing and such action must be approved in writing by an authorized agent of RBB. Such cancellation shall be subject to the payment of cancellation charges ("Cancellation Charges"), which shall include but not be limited to expenses incurred for labor and material costs (including cost of excess material resulting from any minimum buy quantities, tape and reel quantities and multiples of packaging quantities required by the vendor), overhead, charges for unearned discounts (bill back) and a reasonable profit.

**B. Bill back.** Prices indicated are based upon quantities ordered. If, through no fault of RBB, the total quantity ordered is not purchased during the scheduled delivery period, in addition to any other rights available to RBB (including enforcement of the original agreement to purchase) RBB may "bill back" CUSTOMER and CUSTOMER shall pay RBB an amount equal to the difference between the unit price for the quantities actually purchased and the unit price for the quantities originally ordered. The unit price is the higher price of the current price and the price in effect on the date of the original order.

**15. SECURITY INTERESTS:** RBB reserves a purchase money security interest in product sold to CUSTOMER and the proceeds thereof, in the amount of the purchase price. In the event of default by CUSTOMER in any of its obligations to RBB, RBB will have the right to repossess the product sold hereunder or the proceeds hereof without liability to CUSTOMER. RBB may file a copy of the invoice with appropriate authorities at any time as a financing statement and/or chattel mortgage to perfect its security interest. At RBB's request, CUSTOMER will execute financing statements and other instruments to perfect RBB's security interest.

**16. DELAYS:** RBB shall be entitled to an extension of time for the lack of performance of any contract of sale in the event of and to the extent of any delays caused by lack of correct or complete data furnished by CUSTOMER, by the changes or revisions in specifications requested or consented to by the CUSTOMER, or by any cause or violation beyond RBB's reasonable control, including without limitation a Force Majeure Event as defined in Section 23 herein.

**17. STORAGE:** Equipment on which manufacture or delivery is delayed due to any cause not within RBB's control may be placed in storage by RBB, either in RBB's plant or elsewhere, for the CUSTOMER'S account and risk, and RBB's regular charges, and expenses in connection therewith shall be paid by the CUSTOMER promptly upon presentation of invoices: but if, in RBB's opinion, it is unable to furnish, obtain or continue such storage, the CUSTOMER will, on request, provide or arrange for suitable storage facilities and assume all costs and risks in connection therewith. If completed equipment is stored for a cause not within RBB's control, the CUSTOMER shall be invoiced on the originally scheduled shipping date, with payment terms as set forth in Section 6 herein.

**18. DELIVERY/ACCEPTANCE:** All product shipments shall be F.O.B. RBB's facility of manufacture and freight collect; title to and risk of loss or damage to the product shall pass to CUSTOMER upon RBB's tender of the product to a common carrier for shipment to the CUSTOMER. Acceptance of the product shall occur no later than five (5) days after delivery and shall be based solely on whether the product passes a mutually agreeable acceptance test procedure or inspection designed to demonstrate compliance with the specifications. Product cannot be rejected based on criteria that were unknown to RBB or based on test procedures that RBB does not conduct. Product shall be deemed accepted if not rejected within this five-day period.

**19. LIMITED WARRANTY:**

**A.** Subject to the limitations herein, RBB warrants that its products are free from defects in material and workmanship for one year from date of shipment. For purposes of this section, "workmanship" shall mean manufacture in accordance with (i) the CUSTOMER's workmanship standards set forth in the specifications and approved by RBB, or if no such workmanship standards are set forth and approved, then (ii) manufacture in accordance with the most recent version of UL 508A or IPC-A-610 Class 2, as applicable. RBB's obligation and liability under this warranty is expressly limited to, at RBB's option, repairing or replacing the product found by RBB to be defective, or issuing a credit for the purchase price



of such product. This limited warranty does not extend to component parts not manufactured by RBB; however, RBB's warranty herein shall not limit any warranties made by manufacturers of component parts which may be transferrable to the CUSTOMER.

**B.** Any repaired or replaced product shall be warranted as set forth in this section for a period equal to the greater of (i) the balance of the applicable warranty period relating to such product, or (ii) sixty (60) days after the repaired or replaced product is received by CUSTOMER.

**C.** This limited warranty does not extend to products that have defects or failures resulting from (a) CUSTOMER'S design of products including, but not limited to, design functionality failures, specification inadequacies, failures relating to the functioning of products in the manner for the intended purpose or in the specific CUSTOMER'S environment; (b) accident, disaster, neglect, abuse, misuse, improper handling, testing, storage or installation, including improper handling in accordance with static sensitive electronic device handling requirements; (c) alterations, modifications or repairs by CUSTOMER or third parties, or (d) defective CUSTOMER-provided test equipment or test software. RBB's obligation under the warranty shall not include any transportation charges, cost of installation, or any liability for special, indirect or consequential damage or delay, whether arising in contract, in tort, under warranty, or otherwise.

**D.** CUSTOMER bears all design responsibility for the product. It is the sole responsibility of the CUSTOMER to fully evaluate the fitness for use of any recommendations made by RBB personnel as to product design, materials, coatings, processing or testing. Any improper use or operation beyond rated capacity shall void this limited warranty.

**E.** THE SOLE REMEDY UNDER THIS LIMITED WARRANTY SHALL BE THE REPAIR, REPLACEMENT OR CREDIT FOR DEFECTIVE PRODUCTS AS STATED ABOVE. THIS LIMITED WARRANTY IS IN LIEU OF ANY OTHER WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. NO EMPLOYEE OR REPRESENTATIVE IS AUTHORIZED TO CHANGE THIS LIMITED WARRANTY IN ANY WAY OR GRANT ANY OTHER WARRANTY ON BEHALF OF RBB.

**20. RETURNED PRODUCT:** RBB generally does not permit a CUSTOMER to return purchased product or parts thereof to RBB and receive credit except under unusual circumstances. Any such return of product or parts for credit will be permitted only after authorization has been obtained from an authorized agent of RBB, and only if all transportation charges are paid in advance by the CUSTOMER. RBB will refuse to accept shipment of any equipment or parts unless the foregoing conditions have been met.

**21. LIMITATION OF LIABILITY:**

**A.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES, OR ANY DAMAGES WHATSOEVER RESULTING FROM LOSS OF USE, DATA OR PROFITS, EVEN IF SUCH OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATION SET FORTH IN THIS SECTION SHALL APPLY WHERE THE DAMAGES ARISE OUT OF OR RELATE TO THE PROVISION OF ANY PRODUCT OR THE PERFORMANCE OF ANY SERVICES BY RBB.

**B.** IN NO EVENT SHALL RBB'S LIABILITY FOR ANY CLAIM (WHETHER ASSERTED AS A TORT CLAIM, A CONTRACT CLAIM OR ANY OTHER CLAIM) EXCEED THE AMOUNTS PAID TO RBB FOR THE PRODUCT UNDERLYING SUCH CLAIM. IN NO EVENT WILL RBB BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS BY CUSTOMER.

**C.** THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

**22. TERMINATION OF PURCHASE ORDER:**

**A.** Either party may terminate an order for default if the other party materially breaches these terms and conditions or any subsequent agreement between parties; provided, however, no right of default shall accrue until thirty (30) days after the defaulting party is notified in writing of the material breach and has failed to cure the breach or give adequate assurances of performance within such 30-day period. Notwithstanding the foregoing, there shall be no cure period for payment-related defaults. In addition, either party shall have the right to terminate the contractual relationship should the other party party (a) become insolvent; (b) enter into or file a petition, arraignment or proceeding seeking on order for relief under the bankruptcy laws of its respective jurisdiction; (c) enter into a receivership of any of its assets or (d) enter into a dissolution or liquidation of its assets or an assignment for the benefit of its creditors.

**B.** In the event an order is terminated for any reason (other than a material uncured breach by RBB), CUSTOMER shall pay RBB termination charges equal in nature and scope to the Cancellation Charges set forth in the entirety of Section 14 herein.

**23. FORCE MAJEURE EVENT:** Neither party shall be responsible for any failure to perform due to a Force Majeure Event provided that such party gives notice to the other party of the Force Majeure Event as soon as reasonably practicable, specifying the nature and particulars thereof and the expected duration thereof. A "Force Majeure Event" shall mean the occurrence of unforeseen circumstances beyond a party's control and without such party's negligence or intentional misconduct, including, but not limited to, any act by any governmental authority, act of war, natural disaster, strike, boycott, embargo, shortage, supplier delay in delivering Components to RBB, riot, lockout, labor dispute, or civil commotion.

**24. INTELLECTUAL PROPERTY:** RBB retains all right, title and interest in any and all Intellectual Property (which shall include but not be limited to all drawings, specifications, software prepared by RBB, all copyrights, patents and other intellectual property rights of any kind) and in all Proprietary Information (which shall include but not be limited to all processes, skills, procedures, trade information and secrets, and business practices.). CUSTOMER shall not use any Intellectual Property or Proprietary Information, except for the purpose of confirming the quality of design and manufacturing of the products set forth in the proposal. CUSTOMER shall not photocopy, duplicate, decompile, reverse engineer, create derivative works, or in any way copy any Intellectual Property or Proprietary Information provided. However, the CUSTOMER



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may make copies of and use the same as reasonably necessary for CUSTOMER'S internal purposes only and with adequate safeguards against further disclosure, but not for rendering services or selling products to third persons. CUSTOMER shall not sell, license, assign or transfer the Intellectual Property or Proprietary Information or any interest therein to anyone, or in any way attempt to do so. Any violation or threatened violation of this Section 24 shall entitle RBB to an immediate injunction prohibiting such activity.

**25. MISCELLANEOUS:** The terms and conditions set forth herein constitute the entire agreement of the parties, superseding all previous discussions or agreements covering the subject matter. These terms and conditions shall not be changed or modified except by written agreement, signed by an officer of RBB and an authorized representative of the CUSTOMER. CUSTOMER hereby acknowledges that it is not relying upon any warranty or representation by any person or entity except for the warranties or representations specifically set forth herein. The failure by RBB to enforce at any time any of these terms or conditions, to exercise any election or option provided herein, or to require at any time the performance by CUSTOMER of any of the provisions herein will not in any way be construed as a waiver of such provisions. In the event the parties cannot resolve a dispute, the state courts of Wayne County, Ohio and the federal courts with jurisdiction in Wayne County Ohio shall have exclusive jurisdiction and venue to adjudicate any and all disputes between the parties. The parties consent to the exercise by such courts of personal jurisdiction over them and each party waives any objection it might otherwise have to venue, personal jurisdiction, inconvenience of forum, and any similar or related doctrine. These terms and conditions shall be construed in accordance with the substantive laws of the State of Ohio (excluding its conflicts of laws principles). Reasonable attorney's fees and costs will be awarded to the prevailing party in the event of litigation involving the enforcement or interpretation of these terms and conditions.

**26. CUSTOMER'S ACCEPTANCE:** CUSTOMER represents and warrants that CUSTOMER has read, understood and accepted these terms and conditions.

02/17/2023