

Re:Build Standard Terms and Conditions for the Purchase of Goods and Services

These Standard Terms and Conditions of Purchase shall apply to all purchases of goods and services by Re:Build Manufacturing Solutions, LLC or any other wholly owned subsidiary of Re:Build Manufacturing, LLC (each a "**Re:Build Affiliate**").

1 Applicability.

- a. These terms and conditions of purchase (these "**Terms**") are the only terms which govern the purchase of the goods ("**Goods**") and services ("**Services**") by any Re:Build Affiliate(s) as set forth on the purchase order or request for quotation ("**Buyer**") from the seller ("**Seller**") named on any purchase order or request for quotation submitted by Buyer to Seller (collectively, a "**Purchase Order**").
- b. The Purchase Order 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; provided, that a written agreement signed by Buyer and Seller will supersede these Terms.
- c. These Terms prevail over any of Seller's general terms and conditions regardless of whether or when Seller has submitted its sales confirmation or such terms. This Agreement expressly limits Seller's acceptance to the terms of this Agreement. Fulfillment of or other performance under a Purchase Order constitutes acceptance of these Terms.

2 Delivery of Goods and Performance of Services.

- a. Seller shall deliver the Goods in the quantities and on the date(s) specified in the Purchase Order or as otherwise agreed in writing by the parties (the "**Delivery Date**"). If no delivery date is specified, Seller shall deliver the Goods as promptly as possible upon Seller's receipt of the Purchase Order. If Seller fails to deliver the Goods in full on the Delivery Date, Buyer may terminate this Agreement immediately by providing written notice to Seller, and Seller shall indemnify Buyer against any losses, claims, damages, and reasonable costs and expenses, including attorneys' fees and costs, directly attributable to Seller's failure to deliver the Goods on the Delivery Date.
- b. Seller shall deliver all Goods to the address specified in the Purchase Order (the "**Delivery Point**") or as otherwise instructed by Buyer. Seller shall pack all goods for shipment according to Buyer's specifications or, if there are no specifications, in a manner sufficient to ensure that the Goods are delivered in undamaged condition in accordance with best commercial practices and within the requirements of any laws and/or regulations relating to packing, labeling, reporting, and disposal of Goods.

- c. Seller shall provide the Services to Buyer as described and in accordance with the dates or schedule set forth on the Purchase Order and in accordance with the terms and conditions set forth in these Terms.
- d. Seller acknowledges that time is of the essence with respect to Seller's obligations hereunder and the timely delivery of the Goods and Services.

3 Quantity

If Seller delivers more than the quantity of Goods ordered, Buyer may reject all or any excess Goods. Any such rejected Goods shall be returned to Seller at Seller's sole risk and expense. If Buyer does not reject the Goods and instead accepts the delivery of Goods at the increased or reduced quantity, the Price for the Goods shall be adjusted on a pro-rata basis.

4 Shipping Terms.

Delivery shall be made DAP Delivery Point. The Purchase Order number must appear on all shipping documents, shipping labels, invoices, correspondence and any other documents pertaining to the Purchase Order.

5 Title and Risk of Loss.

Title and risk of loss passes to Buyer upon delivery of the Goods at the Delivery Point.

6 Inspection and Rejection of Nonconforming Goods.

Buyer has the right to inspect the Goods on or after the Delivery Date. Buyer, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are nonconforming or defective. If Buyer rejects any portion of the Goods, Buyer has the right, effective upon written notice to Seller, to: (a) rescind this Agreement in its entirety; (b) accept the Goods at a reasonably reduced price; or (c) reject the Goods and require replacement of the rejected Goods. If Buyer requires replacement of the Goods, Seller shall, at its expense, promptly replace the nonconforming or defective Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective goods and the delivery of replacement Goods. If Seller fails to timely deliver replacement Goods, Buyer may replace them with goods from a third party and charge Seller the cost thereof and terminate this Agreement for cause pursuant to Section 17. Any inspection or other action by Buyer under this Section shall not reduce or otherwise affect Seller's obligations under the Agreement or limit any warranty provided by Seller hereunder.

7 Price.

The price of the Goods and Services is the price stated in the Purchase Order (the "**Price**"). Unless otherwise specified in the Purchase Order, the Price includes all packaging, transportation costs to the Delivery Point, customs duties, fees and applicable taxes, including, but not limited to, all sales, use or excise taxes. No increase in the Price is effective, whether due to increased material, labor or transportation costs or otherwise, without the prior written consent of Buyer.

8 Payment Terms.

Seller shall issue an invoice to Buyer on or any time after the completion of delivery and only in accordance with these Terms. Buyer shall pay all properly invoiced amounts due to Seller within 45 days after Buyer's receipt of such invoice, except for any amounts disputed by Buyer in good faith. Without prejudice to any other right or remedy it may have, Buyer reserves the right to set off at any time any amount owing to it by Seller against any amount payable by Buyer to Seller.

9 Seller's Obligations Regarding Services.

Seller shall:

- a. before the date on which the Services are to start, obtain, and at all times during the term of this Agreement, maintain, all necessary licenses and consents and comply with all relevant laws applicable to the provision of the Services;
- b. comply with all rules, regulations and policies of Buyer, including security procedures concerning systems and data and remote access thereto, building security procedures and general health and safety practices and procedures to the extent Seller is made aware of the same;
- c. maintain complete and accurate records relating to the provision of the Services under this Agreement;
- d. ensure that all persons, whether employees, agents, subcontractors, or anyone acting for or on behalf of the Seller, are properly licensed, certified or accredited as required by applicable law and are suitably skilled, experienced and qualified to perform the Services;
- e. ensure that all of its equipment used in the provision of the Services is in good working order and suitable for the purposes for which it is used, and conforms to all relevant legal standards and standards specified by the Buyer; and
- f. keep and maintain any Buyer equipment in its possession in good working order and shall not dispose of or use such equipment other than in accordance with the Buyer's written instructions or authorization.

10 Change Orders

Buyer may at any time, by written instructions and/or drawings issued to Seller (each a "**Change Order**"), order changes to the Services. Seller shall, within 5 days of receipt of a Change Order, submit to Buyer a firm cost proposal for any increased costs attributable to the Change Order. If Buyer accepts such cost proposal, Seller shall proceed with the changed services subject to the cost proposal and the terms and conditions of this Agreement.

11 Representation and Warranty.

- a. Seller warrants to Buyer that for a period of 12 months from the Delivery Date, or such longer period as may be provided by Seller pursuant to its standard product warranty, all Goods will:
 - i. be free from any defects in workmanship, material and design;
 - ii. conform to applicable specifications specified by Buyer in the Purchase Order;
 - iii. be fit for their intended purpose and operate as intended;
 - iv. be merchantable;
 - v. be free and clear of all liens, security interests or other encumbrances; and
 - vi. not infringe or misappropriate any third party's patent or other intellectual property rights.

These warranties survive any delivery, inspection, acceptance or payment of or for the Goods by Buyer.

- b. Seller warrants to Buyer that it shall perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with best industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement.
- c. the warranties set forth in this Section 11 are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of Buyer's discovery of the noncompliance of the Goods or Services with the foregoing warranties. If Buyer gives Seller notice of noncompliance pursuant to this Section, Seller shall, at its own cost and expense, promptly (i) replace or

repair the defective or nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming goods to Seller and the delivery of repaired or replacement Goods to Buyer, and, if applicable, (ii) repair or re-perform the applicable Services.

12 General Indemnification.

Seller shall defend, indemnify and hold harmless Buyer and Buyer's affiliates, successors or assigns and their respective directors, officers, equity holders and employees (collectively, "**Indemnitees**") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder (collectively, "**Losses**") arising out of or occurring in connection with the Goods and Services purchased from Seller or Seller's negligence, willful misconduct or breach of the Terms.

13 Intellectual Property Indemnification

Seller shall, at its expense, defend, indemnify and hold harmless Buyer and any Indemnitee against any and all Losses arising out of or in connection with any claim that Buyer's or Indemnitee's use or possession of the Goods or use of the Services infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party.

14 Limitation of Liability.

IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THESE TERMS, REGARDLESS OF (i) WHETHER SUCH DAMAGES WERE FORESEEABLE, (ii) WHETHER OR NOT SELLER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (iii) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

15 Insurance.

During the term of the Agreement and for a period of twelve (12) months thereafter, Seller shall, at its own expense, maintain and carry in full force and effect commercial general liability insurance (including product liability coverage) in a sum no less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate with financially sound and reputable insurers, and upon the Buyer's request, will provide the Buyer with a certificate of insurance evidencing the insurance coverage specified in this Section. Seller will provide Buyer with at least 30 days' advance written notice in the event of a cancellation or material change in such insurance policy.

16 Compliance with Law.

Seller shall comply with all applicable laws, regulations and ordinances. Seller shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. In addition, Seller agrees that it will not export, re-export, resell or transfer any Buyer information or technology: (a) in violation of any limitations imposed by the United States or any other jurisdiction or (b) to any country for which an export license or other governmental approval is required at the time of export, without first obtaining all necessary licenses or other approvals.

17 Termination.

In addition to any remedies that may be provided under these Terms, Buyer may terminate this Agreement with immediate effect upon written notice to the Seller, either before or after the acceptance of the Goods or Seller's delivery of the Services, if Seller has not performed or complied with any of these Terms, in whole or in part. If Seller 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, then Buyer may terminate this Agreement upon written notice to Seller. If Buyer terminates the Agreement for any reason, Seller's sole and

exclusive remedy is payment for the Goods received and accepted and Services accepted by Buyer prior to the termination.

18 Waiver.

No waiver by Buyer of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Buyer. 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.

19 Confidential Information

If Buyer and Seller have entered into a separate confidentiality or nondisclosure agreement, such agreement shall control with respect to the Confidential Information of the parties. Otherwise, the provisions of this Section 19 shall apply:

- a. **“Confidential Information”** means any and all technical and non-technical information provided by either Seller or Buyer to the other whether or not in writing, including but not limited to trade secrets and proprietary information such as ideas, techniques, sketches, drawings, inventions, know-how, processes, algorithms, software programs and source code, models, formulae, methodologies, research, development, design details, customer information, forecasts, and marketing plans of the disclosing party. “Confidential Information” does not include information that is now or becomes generally available to the public other than as a result of a disclosure by the receiving party in violation of this Section 19, was available to the receiving party on a non-confidential basis prior to the disclosure by the disclosing party, becomes available to receiving party from a source not known to be bound by an obligation of confidentiality to disclosing party, or is independently developed by receiving party without reference to the Confidential Information of disclosing party.
- b. Receiving party agrees that it will at all times hold the Confidential Information of disclosing party in strict confidence and not disclose (other than to receiving party's representatives bound by similar confidentiality obligations) the same except as approved in writing by disclosing party. Receiving party will use the Confidential Information solely to the extent required for receiving party to perform its obligations under these Terms.
- c. Upon written request by disclosing party, receiving party will return or destroy all Confidential Information of disclosing party in receiving party's possession. This obligation does not extend to Confidential Information contained in the receiving party's routine IT backup or disaster recovery systems; provided that the confidentiality and non-use obligations in this Section 19 shall continue to apply to such information.
- d. Receiving party acknowledges that its breach of the provisions of this Section 19 may cause irreparable damage and agrees that disclosing party is entitled to seek injunctive relief, in addition to all other rights and remedies available at law or in equity.

20 Items Furnished to Seller.

Unless otherwise specified in writing by Buyer, Seller assumes and shall be responsible for any and all loss, damage and other risks associated with Seller's use of Buyer's materials, parts, tooling or other property in the performance of a Purchase Order. Unless otherwise specified in writing by Buyer, upon the completion, termination or cancellation of the Purchase Order, Seller shall deliver such property to Buyer in the same condition in which it was received by Seller, reasonable wear and tear excepted, and except for such property as was reasonably consumed in the performance of the Purchase Order. If Seller's performance under the Purchase Order depends upon goods, services, property or other items furnished by Buyer or others, Seller shall, prior to commencing such performance, notify Buyer in writing of any actual or apparent defects or deficiencies in such other items that render such items

unsuitable for Seller's performance under the Purchase Order. If any such defect or deficiency causes an increase or decrease in the cost of or the time required for performance of the Purchase Order, Buyer shall modify the Purchase Order in writing to reflect an equitable adjustment in the prices and/or schedules under the Purchase Order.

21 Tools and Equipment.

All tools, equipment or materials created or acquired by Seller for use in providing the Goods or Services, which have been furnished to, paid for by or charged to Buyer, including without limitation specifications, drawings, tools, dies, molds, fixtures, patterns, hobs, electrodes, punches, artwork, screens, tapes, templates, special test equipment, gauges, content, data and software, will remain or become (as the case may be) Buyer's property, treated as Confidential Information and delivered in good condition, normal wear and tear excepted, by Seller to Buyer's designated delivery location, immediately upon request and without cost to Buyer. Seller warrants that the item(s) and information described in this Section will not be used for any work or production of any materials or parts other than for Buyer without Buyer's prior written consent.

22 Force Majeure.

No party shall be liable or responsible to the other party, or be deemed to have defaulted under or breached these Terms, for any failure or delay in fulfilling or performing any term of these Terms (except for any obligations to make payments to the other party hereunder), when and to the extent such party's (the "**Impacted Party**") failure or delay is caused by or results from the following force majeure events ("**Force Majeure Event(s)**"): (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or action; (e) embargoes or blockades in effect on or after the date of these Terms; (f) national or regional emergency; and (g) strikes, labor stoppages or slowdowns. The Impacted Party shall give notice within 10 days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of 60 days following written notice given by it under this Section 17, the other party may thereafter terminate these Terms upon 15 days' written notice.

23 Assignment.

Seller shall not assign, transfer, delegate or subcontract any of its rights or obligations under this Agreement without the prior written consent of Buyer. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the Seller of any of its obligations hereunder. Buyer may at any time assign or transfer any or all of its rights or obligations under this Agreement to an affiliate without Seller's prior written consent.

24 Relationship of the Parties.

The relationship between the parties is that of independent contractors. Nothing contained in these Terms shall 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 shall have authority to contract for or bind the other party in any manner whatsoever.

25 No Third-Party Beneficiaries.

These Terms are 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 shall 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.

26 Governing Law.

All matters arising out of or relating to these Terms are governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the

State of New York or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of New York.

27 Submission to Jurisdiction.

Any legal suit, action, or proceeding arising out of or relating to these Terms shall be instituted in the federal courts of the United States of America or the courts of the Commonwealth of Massachusetts in each case located in Middlesex County and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

28 Notices.

All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a **"Notice"**) shall be in writing and addressed to the parties at the addresses set forth on the face of the purchase order or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), email (with confirmation of receipt), or certified or registered mail (in each case, return receipt requested, postage prepaid), in each case with a copy of all Notices to Buyer via email to legal@rebuildmanufacturing.com. Except as otherwise provided in these Terms, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

29 Severability.

If any term or provision of these Terms is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of these Terms or invalidate or render unenforceable such term or provision in any other jurisdiction.

30 Survival.

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

31 Amendment and Modification.

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