

ROTARY SYSTEMS, INC
GENERAL TERMS & CONDITIONS OF SALE

The General Terms and Conditions of Sale shall govern the contract between Buyer and Seller to the exclusion of any other terms and conditions that Buyer seeks to impose upon Seller or incorporate by reference, or which are implied by trade, custom, practice or course of dealing. These General Terms and Conditions of Sale supersede any previous version.

1. GENERAL CONDITIONS

a. DEFINITIONS:

The following definitions apply unless otherwise specifically stated.

- i. “Buyer”, “you”, and “your” mean the person, Company, organization or entity, along with its parents, subsidiaries, affiliates, agents, successor, or permitted assignees.
- ii. “Contract” means the entire and complete agreement between you and us and shall be comprised solely of the Order, Order Acknowledgment, and these General Terms and Conditions of Sale.
- iii. “Force Majeure” means any event beyond a party’s reasonable control which, by its nature could not have been foreseen at the time the Contract came into existence including, but not limited to, failure of energy sources or transport network, acts of God, war, terrorism, riot, civil unrest, interference by civil or military authorities, national or international calamity, armed conflict, malicious damages, breakdown of machinery, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or the default of suppliers or subcontractors.
- iv. “Goods” means the products, materials, goods and services to be provided by Seller to Buyer under any Order or Quotation.
- v. “Government” means the Government of the United States and its federal agencies or agents acting on its behalf.
- vi. “Intellectual Property Rights” means right to invention, right to patent or patents, copyright and related rights, trademarks, trade secrets and know-how, including all applications or right to apply for protection which may now exist or in the future arise in any part of the world. A right may be registered or unregistered.
- vii. “Order” means a purchase order issued by Buyer or any other contract between Buyer and Seller for the purchases by Buyer and sale by Seller of goods or services, including changes thereto.
- viii. “Seller”, “we”, “us”, “RSI”, and “our” means Rotary Systems, Inc.

b. CONTRACT FORMATION:

- i. Any quotation given by us is not an offer to sell to you. Unless previously withdrawn by us or otherwise indicated, all quotations are subject to revision after thirty (30) days.
- ii. Each Order submitted by you is Buyer's offer to purchase Goods from us according to these General Terms and Conditions of Sale. You are responsible for confirming the price, quantity, and other terms set forth in your Order are complete and accurate.
- iii. Acceptance by us must be confirmed in writing by our Order Acknowledgement report at which time the Contract between you and us shall come into existence.

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- iv. Our acceptance is strictly limited to these General Terms and Conditions of Sale. Seller shall not be bound by and specifically disclaims, and Buyer waives, any term or condition whatsoever that is different from or in addition to the provisions of the face of the Order or these General Terms and Conditions of Sale, whether or not such term or condition will materially alter the Order. No addition to or variation of these General Terms and Conditions of Sale will become part of the Contract unless expressly agreed to by us in writing.
 - v. You agree not to rely upon any samples, drawings, descriptive material, or advertising produced by us unless they are expressly referenced in the Order Acknowledgement or Order.
 - vi. To the extent we are manufacturing Goods to your specification, you agree to indemnify and hold us harmless against all liabilities, costs, expenses, damages and losses (including without limitation direct or indirect consequential loss, loss of profit or reputation, interest, penalties, legal fees, professional costs, costs and expenses) suffered or incurred by us in connection with any claim made against us arising out of or in connection with our use of your specification. This provision shall survive termination of the Contract.
 - vii. We reserve the right to modify specifications of the Goods to comply with Government regulation or in accordance with the law.
- c. **AMENDMENTS:**
The Contract between you and us may not be added to, modified, amended, superseded, or otherwise altered except by a written amendment signed by authorized representatives of the Buyer and Seller.

2. PRICE, INVOICE AND PAYMENT:

- a. Prices do not include taxes or duties. Payment, declaration, and documentation for all taxes and duties are your sole responsibility. You agree to indemnify and hold us harmless against all liabilities, costs, expenses, interest and penalties (including but not limited to legal fees, professional costs, and costs and expenses) arising from your failure to pay, declare, and document all taxes and duties. This provision shall survive termination of the Contract.
- b. Prices are exclusive of the costs and charges for packaging, shipping, and insurance. These costs and charges will be invoiced in addition to the Goods.
- c. Buyers seeking shipment within the United States will be invoiced upon shipment. All other buyers must pay in full for Orders prior to shipment.
- d. Payment of all invoices shall be dictated by the payment terms we assigned to you as shown on our Invoice. Payments made by credit card will incur an additional 4% service charge.
- e. If payment is not made on the due date then we may cancel the Contract or suspend any further performance and/or charge you the full cost of recovery of sums outstanding plus interest. A decision to implement any of these remedies shall not prevent us from exercising any other right or remedy.
- f. You shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law. You shall not be entitled to any credit, setoff, or counterclaim to withhold all or part of any amount due under the Contract. Without limiting any other rights or remedies we may have, we may, at any time, set off any amount owing to us by you against any amount payable by us to you.

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3. DELIVERY:

- a. All costs of delivery, including but not limited to special arrangements or expedited shipping, are the sole responsibility of Buyer.
- b. Delivery dates are only approximations and shall not be of the essence unless specifically agreed to under the Contract.
- c. We are not liable for delays in delivery caused by a Force Majeure event or by your failure to provide us with accurate and timely information or instructions relevant to our supply of Goods.
- d. If we fail to deliver the Goods, our liability shall be limited to a refund of any amounts paid for the purchase of said Goods.

4. PACKAGING, MARKING AND SHIPPING:

- a. All shipments will be shipped FOB Origin subject to the delivery terms and conditions in the preceding paragraph and the terms and conditions which follow.
- b. Unless specified by the Buyer on its Order, Seller may exercise its own discretion to choose shipping method and add cost on invoice to Buyer. Seller reserves the right not to ship the Goods if Buyer fails to provide a shipping account or payment method for shipping. Seller also reserves the right to ship Goods early and, if shipped early, all invoices remain due and payable in accordance with your assigned payment terms indicated on your invoice.
- c. Delivery is completed upon origin of shipment. Title and risk of loss for each shipment of Goods from Seller to Buyer passes to Buyer upon origin of shipment.
- d. Obtaining and paying for insurance on shipped Goods is the sole responsibility of the Buyer.
- e. In the event Goods are lost or damaged after origin of shipment, Buyer has the sole risk of such loss or damage and cannot pass on expenses incurred to replace the Goods.
- f. If no packing slip is included with shipped Goods, the Seller's statement of items sent will be final and conclusive as to the contents of all shipments.
- g. In the event wood shipping materials need to meet current ISPM 15 standards, a separate fee payable in full by Buyer will be added to the invoice.

5. ORDER CHANGES OR TERMINATION

- a. To request changes to the Contract, Buyer must submit a written request detailing the changes requested. Changes may only be agreed upon by Seller with written approval of an authorized representative of Seller.
- b. Changes may include, but are not limited to, drawings, designs, specifications, quantities, delivery dates, description to which the goods are to conform, methods of shipment, packaging, place of delivery and/or instructions as to any material and or work covered by any Order.
- c. If a requested change causes an increase or decrease in the cost of, or the time required for, the performance of any part of the work under the Order, Seller may modify the price, delivery schedule, or both through an Order Acknowledgement, and the Contract shall be modified accordingly. Buyer and Seller agree to negotiate changes to price, delivery schedule, or both in good faith. Seller is under no obligation to provide documentation or explanation to Buyer regarding changes to price, delivery schedule, or both.

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- d. If the Buyer and Seller are unable to agree on changes, Buyer may only cancel the Order with written agreement of Seller and upon payment of the full costs of manufacture, including but not limited to design, engineering, tools, dies, special equipment, etc. purchased, manufactured or performed for the Order or, a cancellation fee equal to the greater of 50% of the Order being cancelled or 150% of the material acquired for the Order.
- e. Orders cancelled consisting of only stocked standard parts may be cancelled for a 20% restocking fee.
- f. We may cancel an Order due to a Force Majeure event by providing you with notice in writing. You shall have no claim arising out of such cancellation.

6. Inspection, Rejection and Revocation

The Buyer may not perform a work in progress inspection on the Seller's premises without prior written permission of Seller. In the event an order, or part of order, does not pass the Buyer's inspection, the Seller has the option to provide remedy by way of the Seller's warranty. The Buyer shall not be entitled to a refund, credit, or be released from payment of any amounts due under the Contract unless expressly agreed upon, in writing, by an authorized representative of the Seller. Buyer may not pass costs and expenses incurred as a result of any inspections on to the Seller.

7. Delay

Time is not of the essence in performing the Contract. However, should Seller experience or anticipate any delay in delivery, Seller will attempt to notify Buyer of such delay as soon as it is reasonably known and the expected duration. Such notification by Seller shall not give rise to grounds for Buyer to cancel or terminate the Contract. Seller shall not be liable for any direct or consequential damages resulting from a delay in performance.

8. Seller's Warranty

Seller warrants that the goods manufactured and sold by Seller will be free from defects in materials or workmanship under normal use and care until the expiration of the warranty period. Goods are warranted for twelve (12) months from the date of shipment by Seller. Products purchased by Seller from a third party ("Resale Products") for 1) resale to Buyer or as 2) products incorporated into Seller's Goods shall carry only the warranty extended by the original manufacturer. Buyer agrees that Seller has no liability for Resale Products beyond making a reasonable commercial effort to arrange for procurement and shipping of the Resale Products. If Buyer discovers any warranty defects in Goods and notifies Seller thereof in writing during the limited warranty period, Seller shall, at its option, 1) repair any errors that are found by Seller or 2) replace F.O.B. point of manufacture that portion of the Goods found by Seller to be defective, or 3) refund the purchase price of the defective portion of the goods. All replacements or repairs necessitated by inadequate maintenance, normal wear and usage, unsuitable power sources or environmental conditions, accident, misuse, improper installation, modification or disassembly (including but not limited to the Buyer's installation of seal kits, brush blocks or other replacement parts), repair, storage or handling, or any other cause not the fault of Seller are not covered by this limited warranty and shall be at Buyer's sole expense. Seller shall not be obligated to pay any costs or charges incurred by Buyer or any other party except as may be agreed upon in writing in

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advance by Seller. Any and all costs of dismantling, reinstallation and freight and the time and expenses of Seller's personnel and representatives for site travel and diagnosis under this warranty clause shall be borne by Buyer unless accepted separately in writing by an authorized representative of Seller. Goods repaired and parts replaced by Seller during the warranty period shall be in warranty for the remainder of the original warranty period or six (6) months, whichever is longer. This limited warranty is the only warranty made by Seller and can be amended only in writing signed by an Authorized Representative of Seller. The warranties and remedies set forth above are exclusive. There are no representations or warranties of any kind, expressed or implied, as to merchantability, fitness for particular purpose or any other matter with respect to any of the goods. Rotary Systems will not warranty any of its products that have been used improperly, to include: 1) slip rings powered past its rating; 2) rotary unions with insufficient filtration or media with solid particulates; 3) rotary unions used with any resin or plastic media; 4) improper installation; 5) exceeding intended RPM speed, temperature, pressure, media, voltage.

9. Indemnification

Buyer shall indemnify, defend, and hold Rotary Systems, Inc. and its employees harmless from and against all liability, loss, costs, attorney's fees and expenses, and damages (collectively, "Losses"), resulting from or arising out of (i) any claim that the goods or services are defective, negligently designed or manufactured in any manner, or otherwise determined to be the cause of injury or death to persons, or damage to property, or both; (ii) any claim that the goods or services or the manufacture, sale or labeling of the goods or services fails to comply with any governmental requirement, or the labeling on any goods, or on or within the packaging for any goods (including any instructions or warnings thereon), is inadequate in any manner; (iii) any claim that the goods should have been recalled pursuant to any governmental requirement; (iv) Buyer's negligence or willful misconduct in supplying the goods or services; (v) any claim that the goods or services violate or infringe on any patent, trademark, copyright or other intellectual property right; or (vi) any claim, action, suit or proceeding by any person, firm, governmental agency or corporation resulting from or arising out of (i) through (v) above. This provision shall survive termination of the Contract.

10. Property Rights and Intellectual Property

- a. All intellectual property rights in any information or arising out of any work performed in connection with any Contract shall be and remain the sole and exclusive property of Seller. If the Contract provides for Seller to perform any design, engineering, analytical or similar work for Buyer ("Intellectual Property"), all right, title and interest that Seller may have in and to any patentable invention, know-how and trade secrets, copyrightable materials and derivative works thereof that Seller shall conceive, originate or reduce to practice, either individually or jointly with others, in connection with its performance of a Contract are hereby assigned to Seller and shall be the sole and exclusive property of Seller.
- b. Buyer shall not reverse engineer, reverse compile or reverse assemble the Goods, in whole or in part. Buyer will not develop any products incorporating Seller's Intellectual Property or any improvements or applications using Seller's Intellectual Property.
- c. Buyer agrees not to apply for registration of Seller's Intellectual Property or act inconsistent with Seller's rights anywhere in the world. Buyer agrees to notify Seller promptly in writing of any

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potential infringement of Seller's Intellectual Property rights and to cooperate with seller to protect Seller's rights from infringement.

- d. Seller shall not be required to execute any documents or perform any other tasks necessary to grant Buyer ownership of any intellectual property rights.
- e. Subject to the terms herein, Buyer is authorized to use Seller's Intellectual Property in connection with the Goods, but only for the limited purpose of using the Goods.
- f. Any rotary union used with thermosetting polymers or their components (in parts or combined), including but not limited to epoxy and polyurethane is not covered under warranty nor will it be repaired by Rotary Systems.

11. No Right To Audit

Seller has no obligation to provide Buyer with any access to its accounting records for any reason, including the identification of Seller's cost of goods and overall performance under each Order. No representative of Buyer or Buyer's customer will have access to any plants, facilities and records of Seller or any of Seller's subcontractors for any purpose.

12. Non-Assignability

Neither the Contract nor any interest under it may be assigned by Buyer without the prior express written consent of Seller. If Seller consents to any such assignment, Buyer's assignee shall consent to these General Terms and Conditions of Sale.

13. Non-Waiver

No waiver of any provision or failure to perform any provision of these General Terms and Conditions of Sale shall be effective unless consented to by Seller in writing nor shall any such waiver constitute a waiver of any other provision or failure to perform.

14. Severability

If any provision of these General Terms and Conditions of Sale, or part thereof, shall be declared invalid or unenforceable, such provision or part shall be deemed severed and the remainder hereof shall be given full force and effect.

15. Confidentiality

Buyer agrees that all information (whether in tangible or intangible form) supplied by or at the request of Buyer or otherwise obtained in connection with its performance under a Contract shall be deemed proprietary and confidential information of Seller. Buyer shall not disclose any such information to a third party. Buyer shall not be bound by the obligations of confidentiality created hereunder with respect to any information which Buyer can show through written evidence was already known to Buyer at the time of disclosure, is or becomes publicly known through no wrongful act of Buyer, or is rightfully received by Buyer from a third party who has the right to disclose such information without restrictions as to confidentiality. Buyer agrees that money damages would not be a sufficient remedy for any breach of its obligations of confidentiality hereunder and, in addition to all other remedies available under applicable law, that Seller shall be entitled to

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specific performance and injunctive or other equitable relief as a remedy for any such breach or threatened breach. Buyer waives any requirement for the posting of any bond or other security in connection therewith.

16. Survival

Provisions of this contract which either are express to survive its termination or from the nature or context it is contemplated that they are to survive such termination will remain in full force and effect notwithstanding such termination.

17. Governing Laws and Jurisdiction

This Agreement and the performance by the parties hereunder shall be construed in accordance with the laws of the State of Minnesota. The parties expressly agree to resolve any dispute that arises from, or relates in any way to, this Agreement in a court of competent jurisdiction located in or serving Anoka County, Minnesota, which courts will have exclusive jurisdiction over the matter.