

RDS Machine, LLC, Purchase Order Terms and Conditions

1. **Definitions:** The term “Company” means RDS Machine, LLC, or any company that is a subsidiary of, an affiliate of, or related to RDS Machine, LLC,. The term “Seller” means any individual, corporation or other entity who is to perform or provide the work under this purchase order. The term “Work” means all items, material, equipment, labor or other services that is the subject of this purchase order.
2. **Warranty:** Seller warrants that all Work will conform to all specifications, instructions, drawings, data and samples, if any, and will be free from defects in design, material and workmanship for a period of one year after the final acceptance of the Work, or such longer period as may be otherwise provided. These warranties will run to Company, its successors, assigns, customers, and users of its product. If Seller breaches this warranty, Seller, at Company’s option, will either repair the defective work, replace the defective work, or refund the purchase price. If the Company selects repair or replacement, any defects will be remedied without cost to the Company, including but not limited to, the costs of removal, repair and replacement of the defective Work, and reinstallation of new Work. All such defective Work that is so remedied will be similarly warranted as stated above. If the Work involves the sale of goods, this transaction will be governed by the Uniform Commercial Code, latest revision, as enacted by the state of Delaware, including all warranty protection (express or implied) and all buyer remedies.
3. **Patents:** Seller agrees to indemnify and save harmless Company, its successors, assigns, customers and users of its products from all claims arising out of any alleged infringement of patents, copyrights, trademarks or other proprietary rights arising out of Company’s purchase, use or sale of the Work supplied under this purchase order, and to defend at Seller’s expense, including reasonable attorney’s fees, any and all suits or actions based on such claims.
4. **Seller’s Liability and Indemnification:** Except to the extent that any injury or damage is due solely and directly to Company’s gross negligence, Seller will save and hold Company, its successors, assigns, customers and users of its products harmless from and against all liabilities, claims and demands, and damages on account of personal injuries, including death or property loss or damage to Company or to others (including Seller, employees and invitees of Seller and of Company), allegedly arising out of or in any manner connected with the performance of such Work or any defect in the Work, or alleged to have been caused by the negligent or willful act or omission to act of Seller , or a supplier, agent or subcontractor of Seller, or employees or invitees of either of them, and Seller will, at its own expense, defend the same, and will pay all charges of attorneys and all costs and other expenses arising out of these obligations of indemnification.
5. **Insurance:** If Seller, either as principal or by agent or employee, enters upon the property of Company in order to do any work, Seller agrees to maintain, and shall cause its subcontractors to maintain, as applicable, the following types of insurance coverage: (a) Worker’s Compensation Insurance or qualification of self-insurer to satisfy the laws of the state in which the work will be performed; (b) Employer’s Liability Insurance for Bodily Injury per accident with limits of not less than \$100,000 and Bodily Injury by Disease with limits of not less than \$100,000 per policy; (c) Commercial General Liability Insurance for personal injury and property damage, including contractual liability insurance, with the combined limits of not less than \$1,000,000 per occurrence and (d) Automobile Liability Insurance for personal injury and property damage with the combined limits of not less than \$1,000,000 per occurrence. Seller’s Worker’s Compensation insurer or Seller, if self-insured, agrees to waive all rights of subrogation against Company except for claims caused by Company’s sole negligence. Also Seller will name company as an additional insured on its Commercial General Liability and Automotive Liability policies. Sellers insurance will be the primary without right of contribution of any other insurance carried by or on behalf of the Company. Upon Company’s request, Seller will provide Company with written certification, reasonably acceptable to Company, of Seller’s compliance with the requirements listed in this section 5. The requirements in this section 5 are separate and distinct from any other obligations of Seller under this purchase order. All such insurance policies shall provide that in the event of cancellation thereof, written notice of such cancellation shall be given to company at least five days prior to the effective date of such cancellation.
6. **Termination:** Company may terminate this purchase order, in whole or in part, at any time by giving written notice to Seller. After receiving written notice of termination, Seller will immediately cease the Work indicated in the notice of termination. In the event of such a termination, payment for costs incurred by Seller will be negotiated by Company and Seller on the basis of Sellers actual costs plus a reasonable profit for work completed as of the termination date.
7. **Liens:** Seller guarantees that no lien, encumbrance or security interest will be filed by anyone against Company, Company’s property or the Work for materials or labor or both furnished under this purchase order, and will defend and hold Company harmless from any such liens, encumbrances or security interests and will pay all attorney’s fees and all other costs and expenses arising from such liens, encumbrances or security interests.
8. **Independent Contractor:** Seller is an independent contractor and not an employee or agent of Company. Company disclaims any right to control the manner of performance by Seller and Company will not control the manner of performance by Seller. Seller has no authority to direct or control the performance of any employee of Company. Seller’s role will be that of an advisor and not of master to any Company employee. Seller does not have any Company title and Seller is not eligible for Company benefits or employee plans.

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9. **Assignment:** The Work, as a whole, covered by this purchase order and amounts payable by Company to Seller under this purchase order are not assignable to Seller without the prior written consent of Company.
10. **No Violation of Law:** Seller warrants that it will comply with all applicable foreign, federal, state and local laws and regulations.
11. **Environment, Health, Safety and Security:** If Seller, either as principal or by agent or employee, enters upon the property of Company, Seller agrees to comply, and shall cause its subcontractors to comply, with Company's rules and regulations including its environmental, health, safety and security rules and regulations.
12. **Hazardous and Dangerous Goods and Materials:** For any goods or materials furnished in accordance with this purchase order which are defined as hazardous or dangerous under applicable law, Seller will provide Company with hazardous warning and safe handling information in the form of a material safety data sheet (MSDS) and appropriate labeling for such goods or materials.
13. **Equal Employment Opportunity:** Unless this purchase order is exempted by law, Seller will comply with Executive Order 11246, the Rehabilitation Act of 1973, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, the Americans with Disabilities Act, as they have been or will be amended from time to time, and regulations implementing such statutes; and any similar state and local laws and ordinances, and the regulations implementing the same. If requested by Company, Seller will furnish to Company an executed Certificate of Nonsegregated Facilities.
14. **Changes:** Company may, at any time, in writing, make changes to the general scope of this purchase order. If any such change causes an increase or decrease in the cost of or time required for the performance of any work order under this purchase order, an equitable adjustment will be made to the price or delivery schedule, or both, and this purchase order will be modified in writing accordingly.
15. **Electronic Commerce:** At Company's request, Company and Seller will facilitate business transactions by electronically transmitting data. Any data digitally signed pursuant to this section and electronically transmitted will be as legally sufficient as a written, signed, paper document exchanged between the parties, notwithstanding any legal requirement that the date be in writing or signed. Each authorized representative of a party will adopt a unique, verifiable digital identification consisting of symbols or codes to be transmitted with each transmission. Use of the digital identification will be deemed for all purposes to constitute a "signature" and will have the same effect as a signature on a written document.
16. **Inspections:** Company shall have access to Seller's plant at all reasonable times for the purpose of inspecting work, whether completed or in progress. Any such inspection shall not constitute acceptance of the inspected work.
17. **Force Majeure:** The occurrence of an event, whether foreseen or unforeseen, shall be considered an event of force majeure under this purchase order if: (a) the event prevents the performance of a party, in whole or in part, of that party's obligation under this purchase order, (b) is beyond the reasonable control of the party seeking protection and not the fault of the non-performing party; and (c) The non-performing party has been unable to avoid the event through the exercise of reasonable diligence. In furtherance and without limitation of the preceding definition, the following events shall be specifically excluded as events of force majeure under this purchase order: (i) changes in market conditions; (ii) unavailability of materials, supplies or labor; (iii) poor business judgment or estimates; or (iv) unanticipated engineering or technical difficulties. Upon the occurrence of an event of force majeure, the non-performing party shall notify the other parties of such occurrence in writing, specifying in reasonable detail the event of force majeure, and upon such occurrence, the obligations of all the parties shall be suspended until such event of force majeure shall have terminated. Company may terminate this purchase order without any liability or penalty if by reason of any such event of force majeure, performance by Seller is prevented for more than 30 consecutive days. If an event of force majeure compels Seller to allocate deliveries, Seller will make such allocation in a way that ensures Company at least the same proportion of Seller's total output as was purchased by Company prior to occurrence of the event of force majeure.
18. **Breach:** If Seller fails to perform as specified in this purchase order, Company shall have the right upon written notice, without liability or penalty, to: (a) terminate this purchase order, in whole or in part, and Seller shall be liable to Company for all damages, losses and liability incurred by Company, whether directly or indirectly resulting from Seller's breach; (b) obtain the work ordered herein from another source, with any excess cost resulting therefrom chargeable to, and payable by, Seller; and/or (c) setoff or reduce all claims for money due or to become due from Company to Seller to the extent Company is damaged by Seller's failure to perform. The remedies herein provided are cumulative and in addition to any other remedies provided at law or in equity.
19. **Delivery:** All Work shall be delivered F.O.B. point of destination with all charges to be paid by Seller, in which manner as Company may require, except as may otherwise be expressly set forth in this purchase order. Seller shall not divide the Work in separate shipments without Company's prior consent, and Company shall not be required to accept excess or partial shipments. Seller acknowledges that time and quantity are of the essence under this purchase order, and that times of delivery specified on the reverse side hereof are the times of delivery to Company's designated place of delivery.

- 20. Confidentiality:** All information, blueprints, drawings, specifications and data by Company to Seller, or prepared by Seller and paid for by Company, shall be and remain the property of Company and shall be considered proprietary. Seller shall keep confidential all such information, blueprints, drawings, specifications and data, and such shall not be disclosed to others or used for any purposes other than as contemplated in this purchase order, unless expressly consented to in writing by Company, or such disclosure is otherwise expressly permitted in Company's Non-Disclosure Agreement (NDA) executed by Seller, the terms of which are incorporated herein. Seller shall return to Company all such information, blueprints, drawings, specifications and data upon request.
- 21. Entire Agreement:** This purchase order sets forth the entire agreement between Company and Seller with the regard to purchase of Work. By accepting this purchase order it is understood that Seller agrees to Company's terms and conditions. Company objects to any additional or conflicting terms and conditions in Seller's acceptance to this purchase order. Any changes or amendments to the terms and conditions in this purchase order must be agreed to in writing by Company.