



## ROBOTUNITS INC. - TERMS AND CONDITIONS OF SALE

The attached terms and conditions of sale are subject to amendment and change by the SUPPLIER from time to time, in its sole discretion, and without prior notice.

### 1. OFFER AND CONTRACT

No offer or contract shall be binding upon Robotunits, Inc. (the "Seller") except by issuance of the Seller's printed acknowledgement form. Acceptance by Seller of buyer's (the "Buyer") order is expressly made conditional on assent of these terms and conditions (the "Terms and Conditions"), either by written acknowledgement or by conduct of Buyer that recognizes the existence of a contract with respect to the products (the "Products") and services described on Seller's order acknowledgement. No additional or different terms or conditions will be binding upon Seller unless specifically agreed to in writing; failure of Seller to object to conditions contained in any other writing or other communication from Buyer shall not be construed as a waiver of these Terms and Conditions nor acceptance of any such other provisions. These Terms and Conditions also serve as notice of Seller's objection to and rejection of any terms and conditions of purchase or sale included in Buyer's order or other writing that are different from or additional to these Terms and Conditions. Paragraph headings herein are for convenience only and are not to be considered in interpreting any of the provisions herein.

### 2. DELIVERY AND RISK OF LOSS AND LICENSES

- a) Delivery of the Products to a common carrier at Seller's principal place of business or at any other loading point, if so agreed to by the parties in writing, shall constitute delivery to Buyer („Delivery“), and regardless of shipping terms or freight payment, all risk of loss or damage in transit shall upon Delivery, shift to Buyer. If Buyer is responsible for any shipment delay, Seller's written notification to Buyer that the Products ordered hereunder are ready for shipping shall constitute Delivery to Buyer, and all further risk of loss or damage as well as all costs for handling, transportation and storage shall be borne by Buyer.
- b) Seller shall not be liable for any damages as a result of any delay or failure to deliver due to any cause beyond Seller's reasonable control, including without limitation, any act of God, act of Buyer, embargo or other governmental act, regulation or request, fire, accident, strike, slowdown, war, riot, delay in transportation or inability to obtain necessary labor, materials or manufacturing facilities.
- c) It is Buyer's sole responsibility to pay for and to obtain any governmental or other licenses, certificates or documentation as may be required for the United States.

### 3. STORAGE

If the Products are not shipped within thirty (30) days after notification to the Buyer that they are ready for shipping, for any reason beyond Seller's reasonable control, including the Buyer's failure to give shipping instructions, Seller may store such Products at the Buyer's sole risk in a warehouse or other storage facility or upon Seller's premises and the Buyer shall pay all handling, transportation and storage costs at the prevailing commercial rates upon submission of invoices therefor.



#### 4. SUSPENSION AND CANCELLATION

- a) If Buyer shall omit delivery instructions or instructions concerning work commencement or shall fail to accept Delivery or allow work to be done or shall fail to make any payment when it becomes due or shall commit any other breach of contract, or if Buyer shall enter into any composition or arrangement with its creditors or if any distress or execution is levied upon any goods or property of Buyer, or if Buyer shall commit any act of bankruptcy or, if a corporation, a receiver shall be appointed of the whole or any part of its undertaking or assets or if Buyer shall pass a resolution for winding up or if a Court shall make an order to that effect or if Buyer shall have a receiving order made against it, then at Seller's sole option Seller may defer or cancel any further deliveries or services and treat the Contract or any other contract between Seller and Buyer as terminated, but such termination shall be without prejudice to Seller's right to any unpaid price for goods or materials delivered or cost of work done under the Contract and to damages for loss suffered in consequence of such termination.
- b) If Seller shall be prevented from delivering goods or materials or performing work in accordance with the Contract as a result of delay or default on the part of Buyer or any other reason beyond Seller's reasonable control Seller shall be entitled to reschedule the Delivery or performance date or dates as it shall reasonably require.
- c) Buyer may not cancel or terminate any orders accepted by Seller in accordance with Article I hereof, except with Seller's prior written consent and then only upon such terms as shall be acceptable to Seller. Authorized return shipments must be returned in good order and condition to Seller's principal place of business, unless otherwise specified by Seller, must be accompanied by a packaging slip, and must have transportation and insurance charges prepaid. Buyer agrees to pay Seller a restocking fee of fifteen percent (15%) of the original purchase price for any return shipments authorized by Seller. Seller may, in its sole discretion, either issue a credit for or a refund of the purchase price, less any amount due to Seller for the aforementioned restocking fee, for any authorized return shipments, provided that any goods are returned to Seller in good order and resellable condition as determined by Seller in its sole discretion.

#### 5. PRODUCTS

Seller reserves the right to modify or discontinue Products at any time and without prior notice. Seller will ship Products that have the same or similar functionality and performance of the Products ordered, but changes, including but not limited to changes with regard to construction, measurements and weight, due to technical requirements between what is shipped and what is described in specification sheets, catalogs, or the like, are possible.

#### 6. PRICES AND PAYMENT

- a) If the Products are shipped from Seller's principal place of business or from any other location within the U.S.A., the quoted price is F.O.B. Seller's principal place of business or the location of shipment, whichever is applicable unless otherwise agreed upon in writing. If Products are shipped from outside the U.S.A., the quoted price is F.O.B., port of entry in the US, unless otherwise agreed upon in writing.
- b) The quoted price of the Products does not include duty, tariffs, taxes, freight costs, or similar charges which shall be borne by Buyer, unless otherwise agreed upon in writing. All prices are subject to change prior to Seller's issuance of an order acknowledgement. For all prices, Products, and services Seller reserves the right to make adjustments due to changing market conditions, Product discontinuation, or other extenuating circumstances.
- c) Buyer shall be responsible for any insurance and shipping charges of domestic shipments of the Products and Buyer shall reimburse Seller for any such charges paid by Seller, unless otherwise agreed upon in writing.
- d) Payment for all orders shall be made net thirty (30) days from the date of the invoice.
- e) Overdue amounts shall bear a delinquency charge of interest at 12% per annum or the maximum rate permitted by law. The interest rate is subject to change at Seller's discretion.



## 7. TAXES AND OTHER CHARGES

Any manufacturer's tax, occupation tax, use tax, sales tax, excise tax, duty, custom, inspection or testing fee or charge of any nature whatsoever imposed by any governmental authority, domestic or foreign, on or measured by the transaction between Seller and Buyer shall be paid by Buyer in addition to the price quoted or invoiced. In the event that Seller is required to pay any such tax, fee or charge, Buyer shall reimburse Seller therefore unless otherwise agreed upon in writing.

## 8. LIMITED WARRANTIES

### a) Limited Product Warranty

The Seller warrants that the Products shall be free from defects in material and workmanship for a period of twelve (12) months from the date of delivery by Buyer to the ultimate customer of Buyer, but in no event shall such period exceed fifteen (15) months from the date of delivery of Products by Seller to Buyer. The Buyer acknowledges that the Seller has no control over the Products from the time of shipment thereof to the Buyer and that Seller is not responsible, in any way, for any damages or defects caused by or during the shipment of the Products.

### b) Warranty Disclaimer

THE LIMITED WARRANTY PROVIDED IN SECTION 8 a.) ABOVE IS THE SOLE AND EXCLUSIVE WARRANTY AS TO THE PRODUCTS AND/OR SERVICES SOLD HEREUNDER, AND IS EXPRESSLY IN LIEU OF ANY EXPRESS OR IMPLIED WARRANTIES, IN FACT OR IN LAW, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. REPAIR OR REPLACEMENT FOR DEFECTIVE PRODUCTS SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT THERETO. THE SELLER ASSUMES NO LIABILITY IN TORT OR STRICT LIABILITY, NOR SHALL THE SELLER BE LIABLE TO THE BUYER FOR LOSS OF USE OF PRODUCTS OR ANY OTHER INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES INCURRED BY THE BUYER. IN NO EVENT SHALL THE LIABILITY OF THE SELLER ARISING IN CONNECTION WITH ANY PRODUCTS SOLD HEREUNDER EXCEED THE ACTUAL AMOUNT PAID BY THE BUYER TO THE SELLER FOR THE PRODUCTS INVOLVED IN SUCH CLAIM. THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

### c) Inspection and Notification

The Buyer shall notify the Seller immediately upon delivery of the Products to the Buyer, but in no event later than thirty (30) days following delivery, if the Buyer believes in good faith that the Products are not of merchantable quality with regard to workmanship and material. If no such notification is received by Seller from Buyer within thirty (30) days, Buyer shall be deemed to have accepted the Products and Buyer waives any rights to assert any claim against Seller arising from non-conformity of the Products, which would have been observable on reasonable inspection or testing within thirty (30) days of delivery.

### d) Repair or Replacement

Upon notification of the Seller by the Buyer in accordance with Section 10.3, the Buyer shall allow the Seller to inspect the Product of alleged non-merchantable quality, by sending the Product, upon request, to the Seller at the Seller's expense. If the Seller determines, in its sole discretion, that the reason for the non-merchantable quality of the Product was not directly or indirectly caused by the Buyer or other third parties after shipment of the Products, the Seller shall replace or repair any such Product, free of charge and shall send the replacement Product to Buyer at Seller's expense.



- e) Seller's obligations under paragraph a of this provision shall not apply to any component or part of the Products sold hereunder which
  - (1) is consumed or by normal wear and tear, or
  - (2) which is consumed by operation above rated capacity or excessive use, or
  - (3) which has a normal life inherently shorter than the herein stated warranty period, or
  - (4) which has been damaged due to negligent or faulty use, alteration, maintenance, storage, repair, operation, or handling by Buyer, or
  - (5) which is installed or operated in disregard of the operating manual of the Products.
- f) Any description or representation of the Products whether in writing or made orally by Seller or Seller's agents, specifications, samples, models, bulletins, drawings, diagrams, engineering sheets, or similar materials used in connection with Buyer's order are for the sole purpose of identifying the Products and shall not be construed as an express warranty. Any suggestions by Seller or Seller's agents regarding use, application or suitability of the Products shall not be construed as an express warranty unless confirmed to be such in writing by Seller. Performance figures and specifications by Seller are estimates only and are not warranties, unless expressly stated otherwise.

## 9. LIMITATION OF LIABILITY

- a) Except as otherwise agreed in writing, Seller's liability with respect to the Products shall be limited to the warranty provided in Articles VIII. and IX. hereof, and shall be and shall be expressly limited to repair or replacement.
- b) SELLER SHALL NOT BE SUBJECT TO ANY OTHER OBLIGATIONS OR LIABILITIES, WHETHER ARISING OUT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHER THEORIES OF LAW, WITH RESPECT TO THE PRODUCTS SOLD OR SERVICE RENDERED BY SELLER, OR UNDERTAKINGS, ACTS OR OMISSIONS RELATING THERETO. UNDER NO CIRCUMSTANCES WILL SELLER BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER LOSS, DAMAGE OR EXPENSE OF ANY KIND, INCLUDING LOSS OF PROFITS, ARISING IN CONNECTION WITH THE CONTRACT OR WITH THE USE OR LIABILITY TO USE SELLER'S PRODUCTS FURNISHED UNDER THIS CONTRACT. SELLER'S SOLE LIABILITY AND BUYER'S SOLE REMEDY IS LIMITED TO REPAIR OR REPLACEMENT OF DEFECTIVE PARTS OR PRODUCTS.
- c) Without limiting the generality of the foregoing the Seller specifically disclaims any liability for property or personal injury damages, penalties, special or punitive damages, damages for lost profits or revenues, loss of use of the Products or any associated equipment, cost of capital, cost of repairs to the Products subject to Seller's warranty performed by persons other than Seller without Seller's prior written consent, cost of substitute Products, facilities or services, down-time or slow-down costs or for any other types of economic loss, and for claims of the Buyer, Buyer's customers or any third party for any such damages.

## 10. INDEMNIFICATION

- a) The Buyer agrees and guarantees to defend, indemnify and hold the Seller free and harmless from and against any charges, suits, damages, costs, expenses (including legal fees on a full indemnity basis), judgment, penalties, claims, liabilities, or losses of any kind or nature whatsoever, which may be sustained or suffered by or secured against the Seller by reason of, based upon or arising out of any breach of any obligation of the Buyer under this Agreement.



- b) The Seller undertakes to indemnify the Buyer fully against any bona fide third party intellectual property claims against the Buyer and/or any loss or damages suffered or any expenses judicially proven to have been incurred by the Buyer as a result of any of the Products being found or alleged to be an infringement of any third party trademark/design/patent or other intellectual property in the Territory unless such intellectual property claim is caused directly or indirectly by the acts or omissions of the Buyer.

## 11. SECURITY INTEREST

BUYER HEREBY GRANTS TO SELLER A SECURITY INTEREST IN THE PRODUCTS SOLD HEREUNDER TO SECURE PAYMENT OF THE PURCHASE PRICE OF SUCH PRODUCTS AND AGREES, AND APPOINTS SELLER ITS AGENT, TO TAKE ALL SUCH ACTION AND TO EXECUTE ALL SUCH DOCUMENTS AND INSTRUMENTS AS MAY BE NECESSARY OR REASONABLY REQUESTED BY SELLER TO PERFECT AND CONTINUE SELLER'S SECURITY INTEREST HEREUNDER.

## 12. PROPRIETARY INFORMATION/CONFIDENTIALITY

- a) All drawings, diagrams, specifications, and other information furnished by Seller is proprietary to Seller and confidential. Such information has been developed at substantial expense and contains trade secrets that are the exclusive property of Seller. Buyer may not reproduce or distribute such information except to such of Buyer's employees who are required to have such information in order to perform their duties and agree, in writing, to keep such information confidential. All such information supplied by Seller except for information that (a) was generally available to the Buyer from public or published sources, provided publication did not take place in violation of these Terms and Conditions or through fault or omission of the Buyer, (b) was lawfully obtained from a source under no obligation of confidentiality, directly or indirectly, to either the Buyer or the Seller, or (c) was disclosed to the general public with the written approval of the Seller shall be received in confidence, and Buyer shall exercise due diligence and reasonable care to hold such information in confidence.
- b) This section shall survive the termination or expiration of these Terms and Conditions.

## 13. INSURANCE

- a) Seller is entitled to insure the Products sold hereunder against damage or loss during
  - (1) transportation and
  - (2) if shipping is delayed by reasons beyond the reasonable control of the Seller during this delay at the expense of Buyer unless the parties have agreed otherwise. However, Seller is not obligated to obtain insurance.
- b) Until final payment is made, Buyer shall insure such Products at his expense for the benefit of Seller against damages and loss including but not limited to fire and flood, and shall give written proof thereof to Seller.

## 14. PATENTS, COPYRIGHTS

Seller assumes no liability as to any patent or copyright infringement by virtue of the use of Products in combination with other goods or services, or the use of Products manufactured to Buyer's specifications.

## 15. REMEDIES FOR BREACH

Buyer understands and agrees that the Seller will not have adequate remedy at law for the material breach or threatened breach by Buyer, or its, agents, employees, representatives or subcontractors, of any one or more of the covenants set forth in Article XI of these Terms and Conditions. Buyer further agrees that in the event of any such material breach or threatened breach, the Seller may, in addition to (but not in substitution for) the other remedies which may be available to it either at law or in equity, file suit in equity to enjoin the Buyer from the breach of or threatened breach of said covenants.



**16. SEVERABILITY**

If at any time any one or more of the provisions of these Terms and Conditions become invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions of these Terms and Conditions shall not be in any way impaired.

**17. ARBITRATION**

All disputes arising under this Contract shall be settled by final and binding arbitration in the City of Princeton, New Jersey in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. The parties may agree on the selection of a single arbitrator, but in event they cannot agree, each party shall select an arbitrator and the two selected arbitrators shall select a third arbitrator. The award by the arbitrator or arbitrators shall be final and judgement upon the award rendered may be entered in any court having jurisdiction thereof.

**18. GOVERNING LAW**

THIS AGREEMENT AND ANY SALES HEREUNDER SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW JERSEY, WITHOUT REGARD TO ITS CONFLICTS OF LAW RULES.

**19. COMPLETE AGREEMENT**

These Terms and Conditions of Sale and Seller's order acknowledgement constitute the complete and exclusive statement of the agreement between the parties hereto and supersede all prior written and oral statements, including prior representations, statements, conditions, or warranties.