



## **RPMC Lasers, Inc. Standard Terms and Conditions**

The following standard terms and conditions shall govern the sale by RPMC of all products to all buyers. Terms set forth in separate documents such as quotations shall supersede these. Buyer accepts that his contract is contingent upon acceptance of the terms of this contract. Nothing the buyer submits will be binding upon RPMC unless it is specifically accepted in writing.

- I. **PRICES AND QUOTATIONS:** Price quotations by RPMC are net of delivery charges and taxes, if any, and are valid for sixty days unless a shorter period of time is set forth in such price quotation.
- II. **ORDER PROCEDURE:** All quotations are an expression of our interest to produce the quoted materials for Buyer, but the quotation is not a guarantee that we will have those materials at a later date. All orders are subject to written acceptance by RPMC unless the order is submitted in response to a firm written offer from RPMC. A Sales Order Acknowledgment executed by a duly authorized officer of RPMC shall be deemed to be a firm written offer from RPMC.
- III. **STANDARD CONDITIONS OF SALE APPLYING TO PRODUCTS**
  1. **GOVERNING LAW:** This Contract is deemed made in the State of Missouri USA and shall be interpreted under the Uniform Commercial Code and other laws of the State of Missouri in force at the date of such document, without regard to the conflicts of laws principles of such State.
  2. **PRICE; TAXES:** The Products covered by this Contract shall be sold and invoiced at RPMC's prices and charges as agreed-to in writing by RPMC and Buyer. Prices do not include sales, excise, use, VAT, import, or other similar taxes/charges now in effect or hereafter levied by reason of this Contract or the transactions contemplated thereby, all of which shall be paid by Buyer. RPMC reserves the right to invoice such taxes at a later time if such exemption was or is asserted to be inapplicable or invalid.
  3. **PAYMENT TERMS; NO SETOFF:**
    - A. Payment terms are advance payment unless otherwise stated. For firms with no credit history with RPMC, we will require payment prior to shipment.
    - B. Any remittances received by a bank or other depository of RPMC in connection with this Contract will be received by such bank or other depository solely as a clearing agency. Such receiving bank or depository has no authority to determine whether or not the amount remitted constitutes payment in full. Remittances marked to indicate "payment in full" or other similar expressions may be deposited by such bank or depository notwithstanding such markings and such deposit shall not indicate RPMC's acceptance of the remittance as payment in full and shall not otherwise be treated as an election by, or an impairment of any of the rights of, RPMC unless expressly agreed in writing by RPMC
  4. **CREDIT:** RPMC's standard policy is payment in advance. RPMC may, at any time and in its sole discretion, extend, limit or cancel the credit of Buyer as to time and amounts, and as a consequence, may demand payment in cash before delivery of any unfilled portion of this Contract, and may demand assurance of Buyer's due performance including without limitation demanding that one or more deposits, letters of credit or other assurance be provided by Buyer. Upon making such demand, RPMC may suspend production, shipment and/or deliveries until Buyer has provided such assurance. If, within the period stated in such demand, but in no event longer than 30 days, Buyer fails to agree and comply with



such different terms of payment, and/or fails to give adequate assurance of due performance, RPMC may, in its sole discretion and without any requirement to do so,

- (1) by notice to Buyer, treat such failure or refusal as a repudiation by Buyer of the portion of this Contract not then fully performed, whereupon RPMC may cancel all further deliveries and any amounts unpaid hereunder shall immediately become due and payable, or
- (2) make shipment under reservation of a security interest and demand payment against tender of documents of title. In cases where credit is given, if payment is not received by the agreed upon due date, a service charge will be added at the rate of 1.5% per month (18% per year) or the maximum legal rate of interest, whichever is less, to unpaid invoices and other unpaid amounts from the due date thereof. If RPMC retains a collection agency and/or attorney to collect overdue amounts, all collection costs, including attorneys' fees, shall be payable by Buyer upon demand by RPMC. Buyer hereby represents to RPMC that Buyer is now solvent, that it has all requisite power and authority to enter into this Contract, that the execution, delivery and performance of this Contract does and will not conflict with or result in a breach of any contract to which it is a party or by which its assets may be bound, and that no other person other than RPMC has or will have a security interest in the products covered by this Contract until performance in full by Buyer of its obligations under this Contract. Buyer further agrees that each acceptance of delivery of the Products sold under this Contract shall constitute the remaking of each of these representations at such time.
5. **DELAY; CHANGE:** Any change in delivery schedule and/or quantity which is made at Buyer's request shall be cause for potential price re-determination. Delivery reschedules are also subject to an additional charge to reflect increased costs. The applicable reschedule charge will be invoiced at the time such rescheduling is agreed to by RPMC.
6. **CANCELLATION:** Buyer may cancel an order at any time prior to shipment by RPMC by delivering written notice to RPMC; provided, however, that Buyer will be responsible for a cancellation charge of 15% of the price of the canceled Products, plus the amount of all direct and indirect costs incurred by RPMC with respect to the canceled order, including without limitation those incurred after receipt of any written cancellation notice.
7. **SEVERAL SHIPMENTS:** RPMC may make delivery in installments and may render a separate invoice for each installment, which invoice shall be paid when due, without regard to subsequent deliveries. Each installment shall be deemed a separate sale. Delay in delivery of any installment shall not relieve Buyer of its obligation to accept delivery of remaining installments. Each delivery shall be paid for on the due date, as provided in this Contract, without offset, defense or counterclaim and regardless of controversies relating to any delivered or undelivered Products.
8. **TITLE; RISK OF LOSS; INSURANCE:** Title to each shipment of the Products sold hereunder and risk of loss thereon shall pass to Buyer when RPMC or its agent delivers such shipment to a common carrier or licensed trucker consigned to Buyer or his agent, but such shipment shall remain subject to RPMC's rights of stoppage in transit, rights of reclamation and other legal rights of RPMC. If a strike, embargo, governmental action or any other cause beyond RPMC's control prevents shipment or delivery to Buyer or his agent, or if shipping instructions for any shipment are not received before any shipment date, or if payment is to be made on or before delivery, title and risk of loss shall pass to Buyer as soon as the shipment has been set aside by RPMC and invoiced to Buyer and payment shall be made in accordance with invoice as though the Products had been shipped and accepted by Buyer and RPMC shall be under no duty to carry insurance thereafter.



9. **CONSIGNED GOODS:** If any Products provided by RPMC hereunder are supplied on a consignment basis, then such consignment shall also be subject to a separate Consignment Agreement among RPMC, Buyer and its consignee, in form and substance satisfactory to RPMC.
10. **ACCEPTANCE:** Buyer or Buyer's agent may, at its expense, inspect the Products at the place of manufacture with our prior permission and with the understanding that the buyer will be responsible to pay for any associated costs including delays. Buyer shall be deemed to have accepted the Products tendered by RPMC unless Buyer gives RPMC notice in writing specifying the particular deficiencies in the Products: (a) in the case of defects discoverable through inspection, 14 days after arrival of the shipment or (b) in the case of defects not discoverable through inspection, 90 days after arrival of the shipment. In any event, when any Products shall have been altered from its original state, Buyer shall be deemed to have accepted such Products. Buyer's acceptance of Products tendered under this Contract shall be final and irrevocable.
11. **DELIVERY:** Unless otherwise agreed by RPMC and Buyer, the Products are sold F.O.B. factory and shipped collect by certified carrier or at buyer's expense and invoiced, or shipped on Buyer's carrier account number. In the event that any Products are received by Buyer in a damaged condition, Buyer should cease unpacking such Products, request an immediate inspection by the common carrier responsible for delivery, and furnish the carrier's written report to Buyer's insurer and to RPMC. Where a delivery date is specified by RPMC, that date reflects RPMC's best estimate for the probable time required for completion of Buyer's order. RPMC will use reasonable and diligent efforts to effect shipment on or before the date indicated. RPMC shall not be liable, directly or indirectly, for any delay or failure in performance or delivery or inability to perform or deliver, including without limitation where such delay, failure or inability arise or results from any cause beyond RPMC's control or beyond the control of RPMC's suppliers or contractor, including, but not limited to, strike, boycott or other labor disputes, embargo, governmental regulation, inability or delay in obtaining materials. IN NO EVENT SHALL RPMC, IN THE EVENT OF DELAYS OR IN ANY OTHER CIRCUMSTANCES, BE LIABLE TO BUYER OR ANY THIRD PARTIES FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE OR CONTINGENT DAMAGES, EVEN IF RPMC SHALL BE ADVISED BY BUYER OF THE POSSIBILITY THEREOF. In the event of any such delay or failure in performance, RPMC shall have such additional time within which to perform its obligations under this Contract as may reasonably be necessary under the circumstances; and RPMC shall also have the right, to the extent necessary in RPMC's reasonable judgment, to apportion fairly among its various customers in such manner as RPMC may consider equitable Products then available for delivery. If, as a result of any such contingency, RPMC is unable to perform under this Contract in whole or in part, then, to the extent that it is unable to perform, this Contract shall be deemed terminated without liability to either party, but shall remain in effect as to the unaffected portion of this Contract, if any.
12. **START UP:** If the sale price includes assistance by RPMC in Starting up the System at Buyer's facility or training Buyer's personnel, Buyer is responsible for adequate and timely Site preparation (including the maintenance of appropriate insurance) and the availability of its personnel. Installation cost or training time incurred by RPMC in excess of the amounts expressly included in the sales price will be charged to Buyer at then prevailing rates.
13. **WARRANTY:** RPMC itself does not extend a warranty. We are passing along the warranty the manufacturer provides. EXCEPT AS SET FORTH IN A SPECIFIC WARRANTY, RPMC MAKES NO STATUTORY, EXPRESS OR IMPLIED WARRANTY WITH RESPECT TO SUCH PRODUCTS, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE.



14. **PATENTS; OTHER INTELLECTUAL PROPERTY RIGHTS:** Buyer will promptly notify RPMC in writing of any claim asserted and suit or action brought against Buyer alleging that the Products purchased under this Contract infringe one or more United States or foreign patents or other intellectual property or similar rights.
15. **CONFIDENTIALITY:** Any drawings, data, designs, software programs, technical information, trade Secrets or other proprietary information supplied by RPMC to Buyer in connection with the sale of any Products shall remain RPMC's property and be held in confidence by Purchaser. Such information shall not be reproduced or disclosed to others without RPMC's written consent. 15. **LIMITATION OF RPMC'S LIABILITY:** NOTWITHSTANDING ANYTHING SET FORTH IN THIS CONTRACT (INCLUDING ITS ATTACHMENTS) TO THE CONTRARY, IN NO EVENT SHALL RPMC BE RESPONSIBLE OR LIABLE TO BUYER FOR ANY LOSS OF USE, REVENUE OR ANTICIPATED PROFITS, OR FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, CONTINGENT OR PUNITIVE DAMAGES IN CONNECTION WITH ANY BREACH OF WARRANTY OR OTHER BREACH OF RPMC'S OBLIGATIONS UNDER THIS CONTRACT (INCLUDING ANY ATTACHMENTS HERETO).
16. **RPMC'S REMEDIES:** If Buyer fails, with or without cause, to furnish RPMC with specifications and/or instructions for, or refuses to accept deliveries of, any of the Products sold under this Contract, or is otherwise in default under or repudiates all or any part of this Contract or any other contract with RPMC or fails to pay when due any invoice under this Contract or any other contract with RPMC, then, in addition to any and all remedies allowed by law, RPMC, without notice: (1) may bill and declare due and payable all undelivered products under this Contract and/or any other contract between RPMC and Buyer and/or (2) may defer shipment under this Contract and/or any other contract between Buyer and RPMC until such default, breach or repudiation is removed and/or (3) may cancel any undelivered portion of this Contract and/or any other contract in whole or in part. Buyer shall remain liable for all damages suffered or incurred by RPMC in any such circumstances.
17. **COMPLIANCE WITH LAWS:** Buyer assumes responsibility for compliance with all applicable laws relating to the sale and use of the Products covered by any contract between the parties, including without limitation all laws governing exports.
18. **DISPUTE RESOLUTION:** In the event of any dispute arising out of or relating to this Contract, representatives of the parties shall meet promptly in a good faith effort to resolve the dispute without resort to arbitration or court proceedings. If the dispute is not resolved by the parties within thirty (30) days after the representatives' first meeting, then either party, by written notice to the other, may request mediation. Mediation shall be conducted in St. Charles County, Missouri in accordance with the Commercial Mediation Rules of the American Arbitration Association. If mediation is not timely requested or does not end in resolution of the dispute, then the parties agree to finally and exclusively resolve the dispute through binding arbitration, to be conducted in St. Charles County, MO in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitrator may only award or grant to the parties such remedies as a court of competent jurisdiction could award or grant within the locality where the arbitration takes place and may not award consequential or punitive damages. Judgment upon the award rendered by the arbitrator may be entered in any court having proper jurisdiction. Notwithstanding the foregoing, RPMC shall not be required to pursue mediation or arbitration under this Paragraph 19 in connection with claims brought by RPMC against Buyer arising out of Buyer's failure to pay for any Products in whole or in part.
19. **JURISDICTION; VENUE:** RPMC and Buyer hereby consent to the exclusive jurisdiction of the State or federal courts sitting in St. Charles County, Missouri in connection with the enforcement of this Contract or any breach of the terms hereof. Neither party shall assert any objection to such jurisdiction or that



venue in any such court is inconvenient or otherwise improper. Buyer and RPMC consent to service of process by personal delivery or by postage prepaid, certified U.S. mail, mailed to the address of such party set forth in this Contract.

20. **ASSIGNMENT:** This Contract and Buyer`s rights and obligations hereunder may not be assigned, pledged, hypothecated or otherwise transferred by Buyer except with the prior written approval of RPMC, which shall not be unreasonably withheld or delayed. Buyer may assign this Contract and its rights and obligations hereunder to a third party, without the approval of Buyer being required.
21. **WAIVER:** Waiver by RPMC of any provision of these terms or of a breach by Buyer of any provision of this Contract shall not be deemed a waiver of future compliance with this Contract and such provision, as well as all other provisions of this Contract, shall remain in full force and affect.
22. **CLERICAL ERRORS:** Obvious stenographic and clerical errors contained in this Contract are subject to correction by RPMC.
23. **AMENDMENT OR MODIFICATION:** This Contract may only be amended, modified, supplemented or canceled in a written document signed by RPMC and Buyer. The signature of one party hereto shall be insufficient to modify the terms of this Contract.
24. **SEVERABILITY:** If any provision of this Contract shall be held to be unenforceable or invalid, such provision shall be ineffective to the extent of such prohibition or invalidity, and the balance of this Contract shall be interpreted as if such provision were so excluded.
25. **INTERPRETATION:** Any interpretation of this Contract shall be construed consistently by and against both parties.