



# **Robinson Machine®**

## **Robinson Machine Company Terms and Conditions of Sale**

### **I. Contract Formation**

#### **A. Controlling Effect**

These standard terms and conditions of sale (the "Terms and Conditions of Sale"), together with the proposal/quotation (the "Quotation" and collectively with the Terms and Conditions of Sale, the "Contract"), shall govern the sale of products by Robinson Machine Co. ("Robinson"). The Contract shall be controlling and no differing or additional provisions or conditions shall be binding upon Robinson unless accepted in a writing signed by Robinson expressly stating that these Terms and Condition of Sale do not apply. In the event of a conflict or inconsistency between these Terms and Conditions of Sale and the Quotation, the Purchase Order will prevail.

#### **B. Additional or Differing Terms**

Absent such a signed writing as described in the last sentence of I.A. immediately above, signing or initialing by Robinson of any Purchase Order, Work Order, or other Purchaser documentation, or performance and/or delivery by Robinson, shall constitute assent and acceptance by Robinson solely of those terms and conditions of Purchaser which are consistent with and not contrary to the Terms and Conditions of Sale. The Terms and Conditions of Sale are and shall be deemed a notice of objection to all additional or different terms of Purchaser and a rejection thereof. Should the Terms and Conditions of Sale be deemed an acceptance (in terms of chronological sequence of document deliveries), it is expressly made conditional on Purchaser's assent to all additional and different terms contained herein, irrespective of any correspondence, document or other writing issued by Purchaser stating that Robinson's performance constitutes acceptance of Purchaser's terms.

#### **C. Written Approval Required**

All agreements, understandings, terms and conditions must be confirmed and approved in writing signed by an authorized representative or Robinson.

#### **D. Purchaser's Acceptance**

This Quotation and the Terms and Conditions of Sale shall be deemed accepted by Purchaser in their entirety upon or by acknowledgement of the price for the Products set forth therein: (i) by means of oral confirmation; (ii) by the course of conduct of Purchaser; or (iii) by the return or delivery by Purchaser, wither prior or subsequent hereto, of a signed purchase order or work order.

### **E. Purchaser Authorized Representatives**

Purchaser represents and warrants that each Purchaser Authorized Representative has sufficient powers of attorney to execute, and to bind Purchaser. No modification or revocation of such powers of attorney will be effective for purposes of the Contract until Purchaser notifies Robinson in writing.

### **II. Products**

#### **A. Products**

Products (the "Products") shall be defined and limited solely to the specific description of (i) the goods, equipment, parts and associated accessories and components to be manufactured, assembled and/or delivered by Robinson, and/or (ii) the services to be performed by Robinson, all as expressly outlined in Robinson's Quotation, or any modifications thereto agreed by Robinson and Purchaser in writing.

### **III. Shipment Terms**

#### **A. Risk of Loss**

All shipments are made EXW (INCOTERMS 2013) Robinson's facility (unless otherwise specified in the Quotation or in a separate writing signed by an authorized representative of Robinson). Purchaser will be responsible for clearing the Product for export and import and paying all duties, taxes and other charges upon import.

#### **B. Delivery and Installation Cost**

All costs incidental to Delivery, installation of equipment in Purchaser's (or end user's) plant, and inspection of all equipment and work shall be borne by Purchaser, except where otherwise stipulated in writing and accepted and approved by an authorized representative of Robinson. Robinson is not liable for any premium transportation, re-procurement, or other costs or losses incurred by Robinson as a result of any delay in Delivery or Force Majeure. "Deliver" and "Delivery" mean the moment in which Robinson has made Products available to Purchaser at the location specified in the Quotation.

#### **C. Packaging and Shipment**

Robinson shall package all products in suitable containers in accordance with its standard commercial practices. Purchaser must notify Robinson in writing of any special or additional packaging requirements, which will be at Purchaser's expense.

#### **D. Delivery Equipment**

Purchaser shall return delivery equipment furnished by Robinson to the carrier within 48 hours after arrival. Purchaser shall pay all demurrage or detention charges on Purchaser's delivery equipment and shall pay Robinson for the full cost of



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any delivery equipment that is not timely returned. Purchaser shall not return delivery equipment with more than a negligible (<1%) amount of Products remaining, unless otherwise provided in the Quotation, and Robinson will not be responsible for amounts of Products not removed during unloading of the delivery equipment.

#### **IV. Sales Tax**

The purchase price (the "Purchase Price") is stated in the Purchase Order and will be based on U.S. Dollars. The Purchase Price shall not include shipping charges and local or state sales and/or use taxes, if any. The burden of payment and the collection of applicable shipping charges and local or state sales and/or use taxes, if any, is on the Purchaser. Robinson as the seller, has not taken the collection of these taxes in to account in calculating the price reflected in its Quotation or any invoice. Robinson may change prices, by written notice, due to changes in customs duties, taxes, vendor prices, foreign exchange fluctuations, currency regulations, or other factors beyond Robinson's control including Force Majeure, until the moment of Delivery.

#### **V. Delays**

The performance of all work and delivery of all equipment and other goods hereunder is subject to delay or impossibilities resulting from strikes, accidents, governmental actions or regulations, delays or stoppages in transportation, inability to obtain necessary services, materials or products from usual sources, or any other causes beyond Robinson's control.

Any delays caused by or at the request of the Purchaser, including any delays or deficiencies by Purchaser in providing any designs, specifications, materials or other applicable information, will be documented, invoiced and charged to Purchaser as additional labor, overhead and material in accordance with Robinson's then current standard rates. Purchaser shall, in the event of any such delays, pay interest to Robinson on all amounts which would otherwise be due to Robinson for the entire period of such delay, with interest of such amounts to accrue at the highest non-usurious rate. Purchaser shall also pay a storage cost to Robinson for such period of delay in accordance with Robinson's then current standard rate.

#### **VI. Credit Approval**

All orders entered upon or books are subject to approval of credit by Robinson. If Purchaser fails to pay for any one or more shipments when due, then Robinson shall have the right, in addition to other remedies, either

- a. to suspend further deliveries,
- b. to require cash payment on further deliveries, or
- c. to cancel this Contract.

Should Purchaser's financial responsibility become unsatisfactory to Robinson, cash payment or satisfactory security may be required by Robinson before proceeding with further deliveries. Such election by Robinson shall not relieve Purchaser from ordering, accepting and paying for the contracted quantity.

Should Purchaser's credit request be rejected or reasonably revoked at any time prior to performance or delivery, payment of the quoted price for all work and equipment/goods shall be paid in full prior to performance of services and/or shipment of any goods or equipment.

#### **VII. Cancellation Policy**

The Terms and Conditions of Sale and the Quotation are not subject to cancellation except with written consent of Robinson and upon terms that will indemnify Robinson against all Loss by said cancellation.

#### **VIII. Warranty: Warranty Claims**

##### **A. Express Warranty**

Robinson warrants all equipment and other goods it manufactures in accordance with the Products defined in the Quotation to which the Terms and Conditions of Sale relate to be in substantial conformance with the applicable specifications for a period of either ONE (1) YEAR from the date of installation (or, if applicable, start-up) of said goods and equipment at the customer's/end user's plant or facility; or EIGHTEEN (18) MONTHS from the date Robinson ships said items of goods and equipment per the applicable shipment terms set forth herein (the "Original Warranty Period"), whichever period expires first (or for such other period of warranty as expressly set forth in said Quotation or per separate written agreement signed by an authorized representative of Robinson). If any of the Products is subject to repair or replacement during the Original Warranty Period, such Product shall be repaired or replaced and the Original Warranty Period shall be extended for ONE (1) YEAR (the "Extended Warranty Period"); provided that, the aggregate warranty period, including the Original Warranty and the Extended Warranty Period shall, in no event exceed TWO (2) YEARS as of the date on which the goods and equipment were Delivered by Robinson hereunder.

##### **B. Warranty Disclaimer**

There are no warranties, express or implied, which extend beyond or are in addition to those expressly set forth in



Paragraph 8A. **This proposal is made subject to the condition that no implied warranties shall apply, including warranty of merchantability, warranty of fitness for any particular purposes whatsoever, any warranties relating to non-infringement, design, quality, performance or any other implied warranty.** Robinson shall not be bound by any representation or warranties not expressly set forth in this warranty provision of the Terms and Conditions of Sale. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF ROBINSON CONTAINED IN PARAGRAPH 8a OF THE CONTRACT, IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ROBINSON MAKES NO OTHER REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, AND ROBINSON EXCLUDES ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ROBINSON ASSUMES NO RESPONSIBILITY, EXPRESS OR IMPLIED, FOR THE CONDITION, PERFORMANCE, MAINTENANCE, MANUFACTURE, DESIGN, OR NON-INFRINGEMENT OF THE PRODUCTS.

**C. Voiding of Warranty – Operation Limits**

THE EXPRESS WARRANTY ON THE EQUIPMENT DOES NOT GUARANTEE AGAINST ABRASION, EROSION AND WEAR, NOR DOES THE EXPRESS WARRANTY GUARANTEE AGAINST FAILURE DUE TO OPERATION UNDER CONDITIONS WHICH ARE IN EXCESS OF DESIGN LIMITS OR OPERATIONAL STANDARDS AND LIMITATIONS OR, TO THE EXTENT DIFFERENT, IN THE PARTICULAR OWNER'S/OPERATIONAL MANUAL OR IN ANY APPROVAL DRAWINGS. PURCHASER SHALL OPERATE THE EQUIPMENT IN STRICT COMPLIANCE WITH ALL OPERATIONAL STANDARDS AND LIMITATIONS SPECIFIED. ANY WARRANTY CLAIMS FORWARDED TO OR OTHERWISE MADE AGAINST ROBINSON MUST BE ACCOMPANIED BY APPROPRIATE DOCUMENTATION DEMONSTRATING THAT EQUIPMENT WAS OPERATED WITHIN ITS LIMITATIONS. UNDER NO CIRCUMSTANCES SHALL ROBINSON BE HELD RESPONSIBLE OR LIABLE FOR PURCHASER'S SELECTION OF, OR FAILURE TO SELECT, MATERIALS OF CONSTRUCTION WHICH NEED TO BE INCORPORATED INTO THE MANUFACTURE AND CONSTRUCTION OF ANY OF THE PARTS, EQUIPMENT LININGS OR OTHER COMPONENTS FORMING A PART OF THE PRODUCTS IN ORDER FOR THE FINISHED GOODS OR PRODUCTS TO PROPERLY FUNCTION IN AND ENDURE ANY SPECIAL, PECULIAR OR EXTRAORDINARY CONDITIONS, IN OR UNDER WHICH PURCHASER WILL BE USING OR OPERATING SUCH FINISHED GOODS OR PRODUCTS. PURCHASER SHALL BE SOLELY RESPONSIBLE FOR MAKING CERTAIN THAT ANY SUCH SPECIAL MATERIAL AND CONSTRUCTION NEEDS ARE MADE KNOWN TO

ROBINSON AND ADEQUATELY INCORPORATED INTO THE SPECIFICATIONS.

**D. Voiding of Warranty – Alterations or Improper Use**

EITHER OF THE FOLLOWING WILL VOID THE EXPRESS WARRANTY MADE BY ROBINSON: (1) ANY ALTERATIONS TO THE EQUIPMENT OR OTHER GOODS SOLD BY ROBINSON WITHOUT ITS EXPRESS WRITTEN AUTHORIZATION, WHETHER ANY SUCH ACTIONS OCCUR IN THE TRANSPORTATION, ERECTION, USE, MAINTENANCE OR MONITORING OF THE EQUIPMENT OR GOODS SOLD, OR (2) THE FAILURE OF THE PURCHASER OR ITS SUCCESSORS TO OBSERVE OPERATIONAL AND SAFETY STANDARDS AND LIMITATIONS AND DESIGN LIMITS, WHETHER ANY SUCH ACTIONS OCCUR IN THE TRANSPORTATION, ERECTION, USE, MAINTENANCE OR MONITORING OF THE EQUIPMENT OR GOODS SOLD. PURCHASER REPRESENTS AND WARRANTS THAT NONE OF THE GOODS OR EQUIPMENT SOLD BY ROBINSON AS PART OF ITS PRODUCTS WILL BE OPERATED UNDER CONDITIONS WHICH EXCEED OR VIOLATE ANY OF THE OPERATIONAL STANDARDS AND LIMITATIONS (THE EXISTENCE OF ANY OF THESE PROHIBITED OPERATING CONDITIONS VOIDS THE EXPRESS WARRANTY MADE BY ROBINSON).

**E. Warranty Exclusions**

ALL ITEMS OF EQUIPMENT, PARTS AND OTHER MATERIALS SPECIFIED, REQUIRED OR ORDERED BY THE PURCHASER WHICH, ALTHOUGH INTENDED TO BE INCLUDED IN, ATTACHED TO OR OPERATED IN CONJUNCTION WITH THE EQUIPMENT TO BE MANUFACTURED BY ROBINSON UNDER THIS QUOTATION, ARE MANUFACTURED AND/OR INCORPORATED INTO ROBINSON'S WORK BY SOMEONE OTHER THAN ROBINSON, SHALL CARRY ONLY THE GUARANTEE AND WARRANTY AS SUPPLIED BY THAT SEPARATE MANUFACTURER AND SHALL CARRY NO GUARANTEE OR WARRANTY, EXPRESS OR IMPLIED, OF ROBINSON, NOR SHALL ROBINSON BE LIABLE IN ANY WAY WHATSOEVER FOR ANY SUCH THIRD PARTY GOODS, OR ANY FAILURE THEREOF. PURCHASER AGREES THAT ITS ONLY RECOURSE AND RECOVERY UNDER THESE CIRCUMSTANCES WILL BE AGAINST A SAID OUTSIDE MANUFACTURER.

**F. Remedy**

1. Goods: Robinson agrees to replace any material non-conforming parts or equipment which are in breach of its express warranty, shipping as described in Section III.(A.), free of charge subject, however, to the dollar limitations set forth below, and provided Robinson has received written notice from Purchaser of such warranty claim within the warranty period specified hereinabove. In the event Robinson determines, in connection with its



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performance of any warranty work, that field service assistance is required at the particular operational location of the applicable goods or equipment reflected in the Quotation, Robinson agrees to provide such field service assistance at such location for the maximum time period of ten (10) days (weekends, holidays and travel days to be included in the calculation of this period); provided, however, Purchaser shall be solely responsible to pay the costs of all travel, meals, lodging and related out of pocket expenses incurred by Robinson in connection with it performance of said field service assistance. Should the required field service assistance continue for a period of excess of ten (10) days, all time and labor for the extra days will be billed to Purchaser in accordance with Robinson's then existing standard daily rate.

2. Services: Robinson's liability for any and all damages associated with the performance of the specific services, if any, included in the description of the Products separate and distinct from the manufacture of goods or equipment to be delivered by Robinson under the Quotation, shall end and terminate upon the inspection, testing and/or acceptance by Purchaser of Robinson's services. Upon Purchaser signing an acceptance of the services, or upon Purchaser failing to sign such acceptance without submitting written objections to the services performed prior to Robinson's departure from the work site, Robinson shall have no liability whatsoever with respect to the performance of services included in its description of the Products or in connection with damage or injuries to property or person, or death resulting there from, including any incidental and/or consequential damages, or occurring after such acceptance (or deemed acceptance).

**G. Exclusivity of Remedy**

The remedies provided herein constitute the sole and exclusive remedies available to Purchaser upon occurrence of any breach of warranty or other default of Robinson.

**H. Damage Limitation**

ROBINSON'S LIABILITY FOR BREACH OF WARRANTY OR OTHER DEFAULT SHALL IN NO CASE EXCEED THE PURCHASE PRICE. UNDER NO CIRCUMSTANCES WILL ROBINSON BE LIABLE FOR ANY LOSS PROFITS, PUNITIVE, INCIDENTAL AND CONSEQUENTIAL DAMAGES AND ANY OTHER INDIRECT DAMAGES OF PURCHASER OR END USER, INCLUDING, BUT NOT BEING LIMITED TO, DAMAGES IN THE NATURE OF LOSS OF USE OR PRODUCTION AND LOST PROFITS. UPON EXPIRATION OF THE WARRANTY PERIOD (PARAGRAPH 8A AS TO GOODS/EQUIPMENT) OR INSPECTION AND ACCEPTANCE (PARAGRAPH 8F(II)) AS TO

SERVICES) SPECIFIED HEREINABOVE, ROBINSON SHALL HAVE NO FURTHER LIABILITY TO PURCHASER WHATSOEVER FOR ANY DAMAGES, CLAIMS OR LOSSES OF ANY TYPE, AMOUNT OR NATURE RESULTING FROM OR ARISING OUT OF THE PRODUCTS OR ANY GOODS OR SERVICES, AS THE CASE MAY BE, FORMING A PART THEREOF.

**I. Waiver of Other Actions**

PURCHASER AND ROBINSON HEREBY WAIVE ANY AND ALL CLAIMS, DEMANDS, ACTIONS, AND CAUSES OF ACTION WHATSOEVER EXCEPT FOR AN ACTION IN CONTRACT (AS DEFINED AND LIMITED UNDER THIS PARAGRAPH VIII), INCLUDING BUT NOT LIMITED TO, THE RIGHT TO SUE FOR NEGLIGENCE (INCLUDING THE NEGLIGENCE OF ROBINSON, ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, OR OTHERS), STRICT LIABILITY, ABSOLUTE LIABILITY, NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS, WRONGFUL DEATH, SPECIFIC PERFORMANCE, UNJUST ENRICHMENT, BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING, BREACH OF FIDUCIARY DUTY, APPROPRIATION, CONVERSION, CONSPIRACY, REPLEVIN, IMPLIED WARRANTY, FRAUD, FRAUDULENT MISREPRESENTATION AND/OR ANY CLAIM BASED ON THE VIOLATION OF A STATUTE.. PURCHASER'S SOLE AND EXCLUSIVE RECOURSE AGAINST ROBINSON FOR ANY DAMAGES ARISING OUT OF ROBINSON'S PERFORMANCE OF THE PRODUCTS UNDER THE TERMS AND CONDITIONS OF SALE AND THE QUOTATION TO WHICH THEY PERTAIN SHALL BE AN ACTION IN CONTRACT AS DEFINED AND LIMITED BY THESE TERMS AND CONDITIONS, AND IN PARTICULAR, THE PROVISIONS UNDER THIS PARAGRAPH VIII. ROBINSON'S SOLE AND EXCLUSIVE RECOURSE AGAINST PURCHASER FOR ANY DAMAGES ARISING OUT OF THE TERMS AND CONDITIONS OF SALE AND THE QUOTATION TO WHICH THEY PERTAIN SHALL BE AN ACTION IN CONTRACT.

**J. Warranty for Third Party Work**

ROBINSON SHALL NOT UNDER ANY CIRCUMSTANCES BE LIABLE FOR ANY CHARGES ON ACCOUNT OF WORK PERFORMED BY THIRD PARTIES IN CONNECTION WITH ROBINSON'S WORK OR ON EQUIPMENT OR GOODS FURNISHED BY ROBINSON AND WHETHER OR NOT SUCH WORK AND CHARGES ARE APPROVED BY ROBINSON IN WRITING.

**IX. Unforeseen Change Needs**

To the extent dictated by developments over which Robinson has no control, Purchaser agrees in advance to reasonable changes in prices, work schedules, data and other requirements with advance notice.



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**X. Inspection; Acceptance of Work**

Purchaser shall have a period of twenty (20) days from date of Delivery to examine and inspect all Products shipped to Purchaser by Robinson pursuant to the Terms and Conditions of Sale and the Quotation to which they relate. Should Purchaser determine that the Products delivered fail to substantially conform to the applicable specifications agreed upon in Robinson's Quotation, Purchaser shall notify Robinson of such fact in writing within ten (10) days from the end of the stated inspection period detailing each and every non-conformity which Purchaser claims to exist and on which Purchaser intends to rely as a full and final expression of non-conformity. Purchaser shall, with respect to Robinson's performance of services, have those inspection rights set forth in Paragraph VIII.F.(2) hereinabove. Failure to so timely inspect or failure to timely notify Robinson of any claimed non-conformity as required herein shall constitute acceptance of the services, equipment and good by Purchaser, precluding any subsequent effort by Purchaser to reject said items or work. These inspection rights granted Purchaser shall not affect in any way the time payment of the full price for the services, equipment and goods is due to Robinson under the Terms and Conditions of Sale and the Quotation to which they relate.

**XI. Working Conditions**

In the event any services are required at Purchaser's property or other location specified in the Quotation, the Purchaser will remove all debris and obstructions at its own risk and cost to provide Robinson with a clean and safe working environment.

Robinson requires safe, reasonable access to its immediate work area 24 hours per day for the duration of its work, and it shall be Purchaser's responsibility to provide such a safe work place and environment.

The Purchaser shall provide Robinson with all material safety data sheets for any materials with which Robinson personnel may come into contact in performing its Products. The Purchaser shall also provide any specially required personal protective equipment to insure the safety of Robinson personnel while on the Purchaser's (or end user's, as the case may be) premises.

**XII. Base Bid Price**

**A. Exclusions**

The base price, as quoted in the Robinson's Quotation, does not include any equipment, parts, services, materials or any related items unless specifically described and set forth in detail on said Robinson Quotation. If it is necessary to incorporate into the description of the Products items or services not covered in the

base bid price, these additional items and/or services will be documented, invoiced and charged to Purchaser as additional labor, overhead and material at Robinson's then current standard rate.

**B. Accessory Parts**

It is the responsibility of the Purchaser to have on hand all parts, components and other Purchaser furnished equipment and all Purchasers furnished outside subcontracted labor prior to Robinson starting its work. Purchaser shall be subject to all delay charges per Paragraph V. hereinabove should any of said items or services not be timely Delivered.

**C. Work Period**

Prices quoted in the base bid price for service are for one (1) eight-hour shift per day, working Monday through Friday. Base bid price does not include any weekend, holiday or premium time.

**XIII. Products Hazards and Electrical Systems**

Purchaser represents that it is an expert in the design, use and handling of the Products. Purchaser shall comply with all appropriate safe handling and use procedures and all design, warning, safety and health related governmental requirements concerning the Products and shall use commercially reasonable efforts to inform its employees, agents, contractors, customers and other persons and entities of proper use and handling requirements and of the risks associated with the Products, including with handling, shipment, storage, use and disposal of the Products. Purchaser shall not deliver or consign commercial or sample quantities of Products to any party whom Purchaser reasonably believes will handle, transport, use, store or dispose of Products in a dangerous manner or contrary to law or Robinson's advice.

All wiring, instrumentation and/or control system work necessary to make any of the services performed and/or the goods or equipment Delivered by Robinson as part of its Products fully operational shall be the sole responsibility of Purchaser.

**XIV. Trademarks**

Purchaser shall not use the trademarks of Robinson without Robinson's prior written approval. No license or right to use Robinson's trademarks is implied or granted. Purchaser may add labels or stickers to the Products only to comply with registration, importation or use requirements under applicable law. To the extent practicable, Purchaser's labels and stickers shall not affect, edit, alter, block or remove any copyright, trademark, trade secret, proprietary information, serial number



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and/or other notices of Robinson contained on or in the Products.

**XV. Compliance with Laws**

Purchaser shall be responsible for processing all required registrations and importation permits to import the Products into the location specified in the Quotation and shall comply, prior to importing the Products, with all requirements under applicable law regarding labeling, safety and usage, health and environmental requirements, registration, importation and exportation permits of chemicals, vegetal nutrients and hazardous and toxic substances, and with all other applicable laws and regulations. Purchaser represents and agrees that its activities in connection with the Contract comply with the U.S. Foreign Corrupt Practices Act and any other similar act in Mexico. Purchaser shall not pay, promise to pay, or authorize the payment of any money or anything of value, directly or indirectly to any person (whether a government official or private individual) for the purpose of illegally or improperly inducing any official or political party or official of that political party in obtaining or retaining business, or taking any other action favorable to Purchaser or its business.

**XVI. Indemnification**

**A. Indemnification by Robinson**

Robinson shall defend, indemnify and hold harmless Purchaser, its officers, directors, employees, attorneys, agents, and affiliated companies from any and all Losses determined by a non-appealable judgment or award, whether rendered by a court or arbitral panel, arising out of, in connection with, or resulting from (i) the gross negligence of Robinson, or (ii) the breach by Robinson of any of its representations, warranties, covenants or agreements hereunder. Robinson's indemnification obligations hereunder shall not exceed, in the aggregate, the Purchase Price. If any written claim, demand, notice, or legal proceeding (collectively, "Claim") shall be brought or asserted by any third party which, if adversely determined, would entitle Purchaser to indemnity under this provision, Robinson shall have control of the defense, including the employment of counsel reasonably satisfactory to Purchaser and the payment of reasonable out-of-pocket expenses. Robinson shall bear the reasonable fees and expenses associated with defending against a Claim. Purchaser shall have the right to employ counsel separate from counsel employed by Robinson in any such action and to participate in the defense thereof, but the fees and expenses of such counsel employed by Purchaser shall be at the expense of Purchaser (other than the fees and expenses of such separate counsel that are incurred prior to the date Robinson effectively assumes control of such

defense, which notwithstanding the foregoing, shall be borne by Robinson), unless the employment thereof has been specifically authorized by Robinson in writing or Robinson has failed to assume the defense and employ counsel. Purchaser shall reasonably cooperate with Robinson in the defense or settlement of any such Claim.

**B. Indemnification by Purchaser**

Purchaser shall defend, indemnify and hold harmless Robinson, its officers, directors, employees, attorneys, agents, and affiliated companies from any and all Losses arising out of, in connection with, or resulting from (i) any negligent act or omission of Purchaser, its agent, employees, or subcontractors, (ii) any Product designs or specifications or Purchaser instructions or directives, (iii) the ownership and operation of the Products by Purchaser from and after its Delivery, unless such Losses are the result of gross negligence of Robinson, (iv) the breach by Purchaser of any of its representations, warranties, covenants or agreements hereunder, or (v) Robinson's obligations to make, purchase, distribute, test, perform, use, import, export, sell, supply, or otherwise dispose of Products for or on behalf of Purchaser, including, without limitation, (a) infringement of any patent(s), copyright(s), or other intellectual property, (b) misappropriation or misuse of trade secret(s) or other confidential information, or (c) violation of export control laws by Robinson in the export of any diagrams, schematics, designs or samples from the United States by Robinson without an appropriate export license at the specific request of Purchaser. If any written claim, demand, notice, or legal proceeding (collectively, "Claim") shall be brought or asserted by any third party which, if adversely determined, would entitle Robinson to indemnity under this provision, Purchaser shall have control of the defense, including the employment of counsel reasonably satisfactory to Robinson and the payment of reasonable out-of-pocket expenses. Purchaser shall bear the reasonable fees and expenses associated with defending against a Claim. Robinson shall have the right to employ counsel separate from counsel employed by Purchaser in any such action and to participate in the defense thereof, but the fees and expenses of such counsel employed by Robinson shall be at the expense of Robinson (other than the fees and expenses of such separate counsel that are incurred prior to the date Purchaser effectively assumes control of such defense, which notwithstanding the foregoing, shall be borne by Purchaser), unless the employment thereof has been specifically authorized by Purchaser in writing or Purchaser has failed to assume the defense and employ counsel. EXCEPT IN THE EVENT OF FAULT, WILLFUL MISCONDUCT OR NEGLIGENCE BY



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PURCHASER, ROBINSON SHALL REASONABLY COOPERATE WITH PURCHASER IN THE DEFENSE OR SETTLEMENT OF ANY SUCH CLAIM.

**XVII. Confidentiality**

Purchaser shall consider as confidential all information furnished to Purchaser relating to or as a result of the Contract. Purchaser shall (i) hold in confidence all information supplied by Robinson, (ii) not reproduce, use, or disclose such information to others without Robinson's prior written consent, and (iii) return such information to Robinson upon Robinson's demand, except for necessary disclosures to Purchaser's employees or agents to complete its obligations under the Contract.

**XVIII. Duty Drawbacks**

All drawback of duties paid on items entering into manufacture of the Products shall accrue to Robinson, and Purchaser will furnish Robinson, wherever possible all documents necessary to obtain payment of such drawbacks and expenses and will cooperate with Robinson in obtaining such payment.

**XIX. Entire Agreement**

The Contract embodies the entire agreement and understanding of the parties related to its subject matter and supersedes all prior proposals, understandings, agreements, correspondence, arrangements and contemporaneous oral agreements relating to the subject matter of the Contract. None of Purchaser's terms and conditions, if any, shall apply in acknowledging the Contract or in the delivery of a purchase order, nor shall any modification or amendment be effected by the acknowledgment or acceptance of Purchaser's purchase order form or other forms containing additional or differing terms and conditions. Reference to Purchaser's bids or proposals, or noted on any purchase order or otherwise, shall not affect the provisions of the Contract. No conditions, usage of trade, course of dealing or performance, understanding or agreement purporting to modify, vary, explain or supplement the terms or conditions of the Contract will be binding unless the party to be bound has agreed in writing, and no modification shall be effected by the acknowledgment or acceptance of sale or shipping instruction forms containing terms or conditions at variance with or in addition to those in the Contract.

**XX. Force Majeure**

Robinson shall have no responsibility for or liability with respect to any failure or delay in the performance of any term or condition in the Contract, including any delay or failure to Deliver any or all of the Products as provided in Section V, if such failure or delay in performance is due to any cause which is beyond Robinson's reasonable control, including, but not

limited, to acts of God, flood, fire, strike, industrial unrest, acts of war, terrorism, insurrection, riot, public demonstrations, or civil disorder, or any order, decree, law, or regulation of any governmental authority, failure or delay in obtaining any governmental approvals due to governmental inactivity, delay or failure on the part of carriers, suppliers or subcontractors, or interruption of supply or transportation means ("Force Majeure"). In the event of Force Majeure, Robinson's performance of the Contract shall be suspended until such Force Majeure ceases to exist, and the time for performance shall be extended for a period of time equal to the time of the suspension, or for a greater period of time deemed adequate in light of the particular circumstances as agreed by the parties in writing.

**XXI. Severability**

If any provision of the Contract is found by a proper authority to be unenforceable or invalid, such unenforceability or invalidity will not render the Contract unenforceable or invalid as a whole; rather, the Contract will be construed as if not containing the particular invalid or unenforceable provision or portion thereof, and the rights and obligations of the parties hereto will be construed and enforced accordingly. In such event, the parties will negotiate in good faith a replacement provision that would best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.

**XXII. Miscellaneous Provisions**

**A. Governing Law, Venue and Jurisdiction**

The Terms and Conditions of Sale and the Quotation, of which they form a part, shall be construed under, governed by and enforced in accordance with the laws of the State of Florida. The United Nations Convention on Contracts for the International Sale of Goods does not apply to the Contract.

**B. Pre-Suit Notice Clause**

In the event of a Dispute, Purchaser or Robinson may not commence, join or be joined to any action until Purchaser or Robinson has notified the other party in writing, including the facts giving rise to the Dispute and the relief requested, and afforded the other party a reasonable period of time after the giving of such notice to take corrective action.

**C. Mediation/Arbitration Clause**

In the event of a Dispute where Purchaser or Robinson does not take corrective action within a reasonable period of time pursuant to Paragraph B above, the Dispute shall be subject to mediation as a condition precedent to binding arbitration.



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Purchaser and Robinson are giving up the right to litigate all actions in a court of law before a judge or jury.

Purchaser and Robinson shall first endeavor to resolve any Dispute by mediation which, unless Purchaser and Robinson mutually agree otherwise, shall be administered by the American Arbitration Association (the "AAA") under its Commercial Mediation Procedures. The AAA Commercial Mediation Procedures are available on the AAA's website ([www.adr.org](http://www.adr.org)), or by calling AAA at (800) 778-7879. A request for mediation shall be made in writing and delivered to the other party. The mediation shall be held in Florida, unless another location is mutually agreed upon by Purchaser and Robinson.

Any Dispute not resolved by mediation shall be subject to and conducted exclusively by binding arbitration. A demand for arbitration shall be made in writing and delivered to the other party. Any arbitration will be conducted by the AAA under its Commercial Arbitration Rules and shall be held in Florida, unless another location is mutually agreed upon by Purchaser and Robinson. The AAA Commercial Arbitration Rules are available on the AAA's website ([www.adr.org](http://www.adr.org)), or by calling AAA at (800) 778-7879. The arbitrator's decision will be final except for a limited right of appeal under the Federal Arbitration Act. Any court with jurisdiction over Purchaser and Robinson may enforce the arbitrator's award.

**D. Class Action Waiver**

Any arbitration to resolve or litigate any Dispute will be conducted solely on an individual basis. Neither Purchaser nor Robinson will seek to have any Dispute heard as a class action, private attorney general action, or in any other proceeding in which Purchaser acts or proposes to act in a representative capacity. No arbitration will be combined with another without the prior written consent of all parties to all affected arbitrations.

**E. Definitions**

"Customer", if not the end-user, shall be defined as the company, if any, to whom Purchaser actually sells the goods and equipment, sold by Robinson to Purchaser per this Quotation and the Products.

"Dispute", shall be defined as any dispute, action or other controversy between Purchaser and Robinson concerning or relating to the Terms and Conditions of Sale and the Quotation to which they pertain, or any dispute, action or other controversy arising from the relationship between Purchaser

and Robinson. "Dispute" will be given the broadest possible meaning allowable under law.

"End User", or similar terms, shall be defined as the company who actually uses at its business premises or in connection with its business operation the goods and equipment sold by Robinson per the Quotation and its Products.

"Losses" shall be defined as (1) all liabilities, damages, losses, claims, demands, causes of action, settlement payments, costs and expenses, interest, awards, judgments, fines, fees and penalties and other charges (whether pertaining to injuries to property or injuries or death to persons (including, but not limited to, all costs, expenses or reasonable attorney's fees incurred by Robinson)), and (2) all court filing fees, court costs, arbitration fees or costs, witness fees, and each other fee and cost of investigating and defending or asserting a claim for indemnification under the Contract, including attorneys' fees, other professionals' fees, and disbursements.

"Purchaser" shall be defined as the company to whom Robinson has submitted its Quotation of which these terms and conditionals form a part, as set forth on the face of such Quotation. Errors in the printing or spelling, or incomplete designation of, the entity name shall not affect the liability of the intended Purchaser hereunder.

"We", "us" or "our" shall, unless the context otherwise indicates, mean Robinson. "Robinson" shall mean Robinson Machine Company.

**Robinson Machine Company**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Purchaser [Company Name]:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_