



## **Robinson Fans, Inc. Terms and Conditions of Purchase**

### **I. Contract Formation**

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

These Terms and Conditions of Purchase shall be a part of the purchase order (together, the “Purchase Order”) which either refers to these terms and conditions by date reference or which is attached hereto or to which these terms and conditions are attached, as if fully set forth therein. These terms and conditions of purchase shall be controlling and no differing or additional provisions or conditions shall be binding upon Robinson Fans, Inc. (“Robinson”) unless accepted in a writing signed by Robinson expressly stating that these Robinson Terms and Conditions of Purchase do not apply.

#### **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 quotation, proposal or other seller documentation, or acceptance of delivery by Robinson, shall constitute assent and acceptance by Robinson solely of those terms and conditions of Seller which are consistent and do not conflict with these terms and conditions of purchase. These terms and conditions of purchase are and shall be deemed a notice of objection to all additional or different terms of seller and a rejection thereof. Should these terms and conditions of purchase be deemed an acceptance (in terms of chronological sequence of document deliveries), it is expressly made conditional on Seller’s assent to all additional and different terms contained herein, irrespective of an correspondence, document or other writing issued by Seller stating that Robinson’s acceptance of Seller’s performance or delivery constitutes acceptance of Seller’s terms.

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

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

#### **D. Seller’s Acceptance**

This Purchase Order shall be deemed accepted by Seller in their entirety upon or by acknowledgement of the price for the Scope of Work set forth therein: (i) by means of oral confirmation; (ii) by course of conduct; or (iii) by the return or delivery by Seller, either prior or subsequent hereto, of a signed Quotation, proposal or work order.

### **II. Scope of Work**

Scope of Work as used herein shall be defined and limited solely to the specific description of (i) the goods, equipment, parts and associated accessories and components to be designed, manufactured, assembled and/or delivered by Seller, and/or (ii) the services to be performed by Seller, all as expressly outlined in Robinson’s Purchase Order or any modifications thereto agreed by Robinson and Seller in writing, together with any and all designs, drawings and specifications delivered with and/or incorporated into such Purchase Order.



### **III. Shipment/Performance Terms**

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

All shipments are to be made f.o.b. Robinson's designated plant or facility (unless otherwise specified in the Purchase Order or in a separate writing signed by an authorized representative of Robinson) and risk of loss shall pass to Robinson once the items to be shipped, in conforming condition, are duly delivered to Robinson at its designated plant or facility.

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

All costs incidental to delivery, installation of Seller's equipment in Robinson's (or end user's) plant or goods, and inspection of all equipment and work shall be borne by Seller, except where otherwise stipulated in writing and accepted and approved by signature of an authorized representative of Robinson.

#### **C. Time for Performance**

All services will be performed by and under the direct supervision of Seller at the place(s) designated within the Purchase Order and within the time parameters specified therein.

#### **D. Working Conditions**

Seller shall be solely responsible for providing the necessary work conditions for the performance of the Scope of Work, including taking all safety precautions which may be required. Seller shall in these efforts safeguard and protect all of Robinsons property, plant and personnel.

### **IV. Sales Tax**

Quoted prices include applicable local or states sales and/or use taxes, if any. The burden of payment and the collection of applicable state sales and/or use taxes, if any, is on the Seller. Robinson as the Purchaser, has taken the payment of these taxes into account in calculating the price reflected in its Purchase Order, and any sales and/or use tax obligation shall be solely undertaken and satisfied by Seller our of the Purchase Price remitted to Seller by Robinson under the terms of this Purchase Order.

### **V. Delays**

**A.** The performance of all work by Robinson under its contract with the end-user or customer, and Robinson's acceptance of Seller's performance of services and/or delivery from Seller of all equipment and other goods under the Purchase Order, are subject to delays 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.

**B.** Any delays caused by or at the request of the Seller will be documented, and charged to or against Seller as labor, overhead and material in accordance with Robinson's then current standard rate sheet. Seller shall, in the event of any such delays, pay and/or credit to Robinson all amounts which would otherwise be due from Robinson to its customer for the entire period of such delay, together with interest due to Robinson on the amount Robinson is to receive from its customer, to accrue during such period of delay at the highest non-usurious rate. Seller shall also pay a storage cost to Robinson for such period of delay in accordance with Robinson's then current standard rate sheet.



## **VI. Cancellation Policy**

The Purchase Order is not subject to cancellation by Seller except with written consent of Robinson and upon terms that will indemnify Robinson against all loss caused by said cancellation. Robinson may cancel this Purchase Order without cost or penalty at any time prior to Seller's written notice to Robinson of its commencement of the Scope of Work defined herein, and thereafter with the incurrence by Robinson solely of the actual labor and material costs incurred by Seller in performing said Scope of Work to the date of such termination.

## **VII. Warranty: Warranty Claims**

### **A. Express Warranty**

Seller warrants all (i) equipment and other goods it manufactures and (ii) all services it performs, as in accordance with the Scope of Work defined in the Purchase Order, to be free of defects in design, materials, manufacture and workmanship for a period of either One (1) year from the date of installation (or, if applicable, start-up) of said equipment and goods into Robinson's goods or at Robinson's plant, or customer's/end user's plant or facility, as the case may be, or, as to services, from the last date of performance, or Eighteen (18) months from the date Seller ships said items of goods and equipment per the Shipment Terms, whichever period expires first. If applicable, the warranties provided for herein shall be for such other period of warranty as and to the extent expressly set forth in the Purchase Order or per separate written agreement signed by an authorized representative of Robinson.

### **B. Implied Warranties**

In addition to all express warranties set forth herein, all implied warranties shall also apply, including warranty of merchantability, warranties of fitness for particular purposes intended and for all general purposes, and all other implied warranties available under applicable laws.

### **C. Warranty/Operation Limits**

The express and implied warranties on the services performed by Seller and/or the goods or equipment delivered by Seller hereunder shall not be subject to any design limits, or operational standards or limitations, unless expressly specified within this Purchase Order or within an owner's/operational manual provided to Robinson with such services, goods and equipment and acknowledged as having been received by the written signature of an authorized representative of Robinson. Any warranty claims forwarded to Seller or otherwise made by Robinson shall be deemed to have been made on the premise that Robinson at all times operated the equipment delivered or serviced by Seller in strict compliance with any and all design limits and operational standards and limitations unless Seller shall prove both that it supplied special design limits, operational standards and limitations as set forth in the preceding sentence, and that such special limits or standards were exceeded. The Seller shall be solely responsible for making certain that any such operational standards and limitations, and design limits are made known to Robinson and adequately incorporated into Robinson's design and manufacture of the goods and products to and into which Seller's goods and equipment are being incorporated, attached or affixed. Seller represents and warrants that the goods and equipment sold to Robinson as part of the Scope of Work will withstand, for the entire warranty period set forth herein, being continuously operated under those conditions which are set forth in this Purchase Order or the drawings, designs or specifications forming a part hereof, or, to the extent different, in a separate written agreement signed by an authorized representative of Robinson.



## **D. Warranty Extension**

All services and items of equipment, goods, parts and other materials specified, required or ordered by Robinson under this Purchase Order which, although intended to be included in, attached to or operated in conjunction with equipment to be manufactured by Robinson, are actually performed, manufactured and/or incorporated into Robinson's work by Seller and/or someone else other than Robinson, shall carry the guarantee and warranty as supplied by Seller and shall carry no guarantee or warranty, express or implied, of Robinson, nor shall Robinson be liable in any way whatsoever for any of Seller's services, goods or equipment, or any failure thereof. Seller agrees that all of its warranties and guarantees, and Seller's liability for failure or breach thereof, extend to, are additionally in favor of, and are fully enforceable by, Robinson, Robinson's customer and the end-user.

## **E. Remedy**

Seller agrees to replace any and all defective parts, goods or equipment and/or correct and remedy deficient services which are in breach of its express or implied warranties, f.o.b. Robinson's, Robinson's customers or end user's factory or plant (as the case may be), free of charge. In the event Seller determines in connection with its performance of any warranty work, that field service assistance is required at the particular location of the applicable goods or equipment reflected in this Purchase Order, Seller agrees to provide such field service assistance at such location and Seller shall be fully responsible to pay the cost of all travel, meals, lodging and related out-of-pocket expenses incurred by it and in connection with its performance of said field service assistance. The remedies provided herein shall be cumulative, non-exclusive and in addition to any and all other remedies available to Robinson upon occurrence of any breach of warranty or other default of Seller. Seller's liability for breach of warranty or other default shall in no case be limited by the initial price Robinson paid for the defective services, goods or equipment furnished by Seller, and under each and every circumstance. Seller shall be fully liable for any and all incidental and consequential damages of Robinson, Robinson's customer, and/or other end-user.

## **F. Availability of Other Actions**

Robinson retains and shall have any and all causes of action and rights to sue Seller upon Seller's breach or default, including actions under theories of recovery in tort and strict/absolute liability.

## **VIII. Confidentiality Agreement**

Seller acknowledges that, in connection with its performance of services and/or manufacture of goods and equipment in accordance with the Scope of Work defined in this Purchase Order, Robinson may have delivered to Seller certain of Robinson's engineering procedures, plans, drawings, designs, specifications or other trade secrets and confidential and proprietary information of Robinson (hereinafter such documentation and information delivered by Robinson shall be referred to as "Robinson's Confidential Information"). In the event under the Scope of Work defined in this Purchase Order, Robinson delivers to Seller any of Robinson's Confidential Information, Seller hereby agrees, covenants, represents and warrants to and with Robinson, with respect to Robinson's Confidential Information, as follows: (i) not to use any of Robinson's Confidential Information in any manner unrelated to the performance by Seller of the Scope of Work as defined in this Purchase Order, and to not disclose Robinson's Confidential Information to anyone without the express written consent of Robinson except for the limited dissemination of Robinson's Confidential Information to those employees of Seller whose knowledge of



Robinson's Confidential Information is absolutely necessary for the purposes of Seller's successful performance of the Scope of Work, and, even then, only to the extent such employees agree in writing to be bound by the restrictions, prohibitions and limitations contained in this paragraph 8; (ii) to not copy or reproduce, in whole or in part, Robinson's Confidential Information, except (subject, however, to section (iii) immediately below) as necessary for Seller to perform the Scope of Work; (iii) to immediately return all of Robinson's Confidential Information, including all copies and records thereof, to Robinson upon receipt of request therefor from Robinson, upon any decision by Seller to not perform the Scope of Work (prior to commencement thereof) set forth in this Purchase Order, upon a decision by Robinson to not have Seller perform the Scope of Work set forth in this Purchase Order, or upon completion by Seller of the goods and equipment forming a part of the Scope of Work; and until any such required return, to store all of Robinson's Confidential Information in a safe and protected place as the sole and exclusive property of Robinson; and (iv) no rights or licenses, express or implied, are hereby granted to Seller in, to or under any of Robinson's Confidential Information.

## **IX. Right to Set-Off**

Robinson shall have the right at any time, and from time to time, to set-off against any amounts which are then or may thereafter become due and payable to the Seller under this Purchase Order, any and all amounts now or hereafter owing by the Seller to Robinson.

## **X. Seller's Insurance Obligations**

Seller agrees to maintain, at its sole cost and expense, a policy or policies of both products and general liability insurance with respect to the services performed and the goods and equipment furnished by Seller under this Purchase Order and the Scope of Work defined herein. Such insurance shall be extended to include "vendor's coverage," shall name Robinson as an additional insured with respect to such vendor's coverage, shall include Automobile and Workman's Compensation Coverage, shall be written with such companies and contain such provisions as shall be satisfactory to Robinson, and shall have limits of coverage of no less than \$1,000,000.00 per each occurrence. For purposes of eliminating possible disputes as to applicability of common exclusions under such vendor's coverage, Seller acknowledges it approves of Robinson's warranties to its customer/end-user, Seller acknowledges that its goods and equipment sold hereunder are stand-alone components and not parts of Robinson's goods and equipment, and Seller covenants and warrants to and with Robinson and Seller's products liability insurer that none of the other common exclusions to such vendor's coverage are applicable. Seller shall furnish to Robinson, prior to its commencement of the Scope of Work, a certificate of insurance evidencing Seller's compliance with the insurance requirements set forth herein. The certificate shall stipulate that the policy or policies have been extended to afford such vendor's coverage (naming Robinson as an additional insured and acknowledging inapplicability of standard exclusions) and that the insurer will give Robinson at least 30 days prior written notice of cancellation or of any material change in such insurance or insurance coverage.

## **XI. Seller's Indemnification Covenants**

Seller hereby covenants and agrees to defend, indemnify and hold Robinson harmless from and against any and all claims, demands, causes of action, losses, damages, or liabilities, 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), which may result from or arise out of any of the following: (i) the negligence of Seller, or its employees or subcontractors, in connection with (a) the design, manufacture,



material selection or installation of goods or equipment; (b) the performance of services; or (c) otherwise in connection with its performance of the Scope of Work and the terms of the Purchase Order; (ii) liability, with or without fault, which is strictly imposed by operation of law upon Robinson, to the extent relating to or arising out of the performance of services, design or manufacture of goods or equipment by Seller, and/or in connection with the performance or operations of such goods or equipment; (iii) the operation and performance, or failure of operation or performance, of the goods or equipment serviced, manufactured and/or delivered by Seller to Robinson in connection with Seller's performance of the Scope of Work and the terms of the Purchase Order; (iv) the violation by Seller of any applicable federal, state and/or local laws, regulations or ordinances pertaining to or governing Seller's performance of services and/or manufacture and/or design of the goods and equipment forming a part of the Scope of Work and the terms of the Purchase Order; and (v) this indemnity of Seller shall not only extend to any such claims, demands, causes of action, losses, damages, liabilities, costs, expenses, and attorneys' fees of Robinson, but also to those of Robinson's customer and the end-user.

## **XII. Inspection of Work**

Robinson shall have a period of thirty (30) days from date of completion of services, or, as to equipment, from date of delivery and installation, to examine and inspect all services performed by Seller and all equipment and goods shipped to Robinson by Seller pursuant to the terms of the Purchase Order. Should Robinson determine that the equipment or other goods delivered or the services performed hereunder fail to conform in any respect to the specifications and designs agreed upon in Robinson's Purchase Order, Robinson shall notify Seller of such fact in writing within ten (10) days from the end of the stated inspection period detailing each and every defect which Robinson claims to exist and on which Robinson intends to rely as its expression of non-conformity. Neither performance of the inspection nor failure to so timely inspect, nor failure to timely notify Seller of any claimed defects as required herein, shall constitute acceptance of the services or equipment and goods by Robinson. These inspection rights granted to Robinson shall not affect or limit in any way the express or implied warranties granted to Robinson under the Purchase Order, nor applicability of the vendor's coverage extended in favor of Robinson under the terms hereof.

## **XIII. Electrical Systems**

All wiring, instrumentation and/or control system work necessary to make any of the services performed and/or goods or equipment delivered to Robinson as part of the Scope of Work fully operational shall be the sole responsibility of Seller.

## **XIV. Miscellaneous Provisions**

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

The Purchase Order and all of its terms, shall be construed under, governed by and enforced in accordance with the laws of the Commonwealth of Pennsylvania. Jurisdiction and venue for any action to enforce or interpret this Purchase Order shall be in Butler County, Pennsylvania.

### **B. Definitions**

"Seller" shall be defined as the company to whom Robinson has submitted its Purchase Order, as set forth on the face of such Purchase Order. Errors in the printing or spelling, or incomplete designation of, the



# Robinson Fans

entity name of Seller shall not affect the liability of the intended Seller hereunder. "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 or serviced by Seller to Robinson per the Purchase Order and the Scope of Work. "Customer," if not the end-user, shall be defined as the company to whom Robinson subsequently sold the goods and equipment sold or serviced by Seller to Robinson per the Purchase Order and the Scope of Work.

"We," "us" or "our" shall, unless the context otherwise indicates, mean Robinson. "Robinson" shall mean Robinson Fans, Inc.

## XV. Federal Acquisition Regulation

The clauses listed below from the Federal Acquisition Regulation (FAR) are incorporated by reference into this Purchase Order and shall have the same effect as if they were set forth in full.

FARS 52.222-26 Equal Opportunity

FARS 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans

FARS 52.222-36 Affirmative Action for Workers with Disabilities

### Robinson Fans, Inc.

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

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

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

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

### Seller Company Name:

\_\_\_\_\_

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

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

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

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

