



Safety is for life.™

Purchase Terms and Conditions

1 Purchase of Products and Services

REMBE®, INC., ("REMBE") agrees to provide Customer all of the Products and Services described in the attached Order Confirmation. Customer shall provide Compensation for the Products and Services to REMBE as described in the attached Order Confirmation. The parties hereto acknowledge the receipt and sufficiency of the mutual consideration provided by the parties pursuant to this Agreement. Services (and product warranties) shall not include items (i) required as a result of Customer's fault (including, without limitation, failure to comply with this Agreement or instructions or procedures provided by REMBE), (ii) the acts of any third party, or (iii) outside the scope of the description of Products or Services set forth on the attached Order Confirmation or the mutual agreement of the parties. If Customer desires for REMBE to provide products or services not described in the attached Order Confirmation, Customer shall submit such request in writing to REMBE, and REMBE, in its sole discretion, may decide whether to accommodate such request (and the additional pricing that may be associated with such accommodations). Risk of loss with respect to the Products shall pass to Customer upon shipment. Customer is responsible for all shipping charges.

2 Definitions

In this agreement (a) "Agreement" shall mean this agreement, which includes the first page of this Agreement (i.e., the attached Order Confirmation) and these Terms and Conditions, (b) "Compensation" means the compensation described on the attached Order Confirmation, (c) "Confidential Information" shall have that meaning set forth in Section 3 herein, (d) "Customer" means the entity or person(s) described on the attached Order Confirmation, (e) "Products" means the REMBE Products identified on the attached Order Confirmation, and (f) "Services" means the REMBE Services identified on the attached Order Confirmation.

3 Confidentiality

REMBE may disclose to Customer certain non-public information relating to REMBE's business, including, without limitation, technical, marketing, financial, personnel, planning, and other information that is marked confidential, or which the Customer should reasonably know to be confidential given the nature of the information and the circumstance of disclosure ("Confidential Information"). Customer agrees that it will not disclose REMBE's Confidential Information except (a) to the employees, contractors, advisors or agents of the Customer to the extent that they need to know that Confidential Information for the purpose of performing the Customer's obligations under this Agreement or performing their obligations to the Customer, and who are bound by confidentiality terms with respect to that Confidential Information no less restrictive than those contained in this Section 3; or (b) as required to be disclosed by law, to the extent required to comply with that legal obligation, provided that the Customer will promptly notify REMBE of such obligation.

4 Warranty

REMBE WARRANTS TO CUSTOMER THAT THE PRODUCTS ARE IN WORKING CONDITION, FREE FROM MATERIAL DEFECT, AND WILL CONTINUE TO BE SO FOR A PERIOD OF TWELVE (12) MONTHS AFTER INITIAL PURCHASE BY CUSTOMER. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, REMBE MAKES NO OTHER WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, IN CONNECTION WITH THIS AGREEMENT OR THE PRODUCTS AND SERVICES, ALL OF WHICH ARE HEREBY DISCLAIMED BY REMBE AND EXCLUDED FROM THIS AGREEMENT. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF THE FOREGOING WARRANTIES WILL BE FOR REMBE, AT ITS OPTION, TO EITHER REPAIR OR REPLACE THE DEFECTIVE PRODUCT OR SERVICE. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH HEREIN, REMBE SHALL NOT BE RESPONSIBLE FOR ANY WARRANTY CLAIMS TO THE EXTENT SUCH CLAIMS ARE BASED UPON (A) THE IMPROPER ACTIONS OR OMISSIONS OF CUSTOMER (INCLUDING, WITHOUT LIMITATION, FAILURE TO FOLLOW REMBE'S INSTRUCTIONS OR OPERATING MANUALS, NEGLIGENCE, OR MISUSE OF THE PRODUCTS), (B) THE FAULT OF ANY THIRD PARTY EQUIPMENT OR THIRD PARTY SOFTWARE, (C) THE RESULT OF ANY EXTERNAL FACTORS NOT CAUSED BY REMBE, INCLUDING, BUT NOT LIMITED TO, THEFT, ARSON, AN ACT OF GOD, OR AN ACT OR OMISSION BY ANY THIRD PARTY, (D) ANY CHANGE OR MODIFICATION OF THE PRODUCT OR COMPONENT THEREOF MADE BY CUSTOMER OR ANOTHER PARTY NOT AUTHORIZED BY REMBE IN WRITING; AND (E) CUSTOMER'S USE OF THE PRODUCT IN A MANNER OUTSIDE OF THE AUTHORIZED SCOPE OF USE.

5 Limitation of liability and indemnification

NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN THIS AGREEMENT, REMBE'S TOTAL CUMULATIVE LIABILITY UNDER THIS AGREEMENT, OR AT LAW WITH RESPECT TO ANY PRODUCTS OR SERVICES PROVIDED TO CUSTOMER (WHETHER NEGLIGENT OR OTHERWISE), WILL BE LIMITED TO THE TOTAL FEES PAID (LESS ANY REFUNDS OR CREDITS) BY CUSTOMER TO REMBE IN THE PRECEDING TWELVE (12) MONTHS. IN NO EVENT WILL REMBE BE LIABLE TO CUSTOMER UNDER, IN CONNECTION WITH, OR RELATED TO THIS AGREEMENT FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON BREACH OF CONTRACT, WARRANTY, TORT, PRODUCT LIABILITY, OR OTHERWISE, AND WHETHER OR NOT REMBE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE FOREGOING LIMITATIONS OF LIABILITY ARE A CONDITION AND MATERIAL CONSIDERATION FOR THEIR ENTRY INTO THIS AGREEMENT. CUSTOMER SHALL INDEMNIFY REMBE AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY LOSS, DAMAGE, COST OR EXPENSE (INCLUDING REASONABLE ATTORNEYS' FEES) ARISING FROM (A) ANY ACTIONS OR

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OMISSIONS OF CUSTOMER, INCLUDING, WITHOUT LIMITATION, CUSTOMER'S BREACH OF THIS AGREEMENT OR FAILURE TO FOLLOW THE INSTRUCTIONS OF REMBE RELATED TO THE PRODUCTS OR SERVICES, (B) NON-COMPLIANCE WITH ANY FEDERAL, STATE OR LOCAL LAWS OR REGULATIONS, OR (C) ANY CLAIM ALLEGING DAMAGE TO PROPERTY OR INJURY TO PERSON OR DEATH THAT RESULTS FROM THE REMBE PRODUCTS OR SERVICES. THIS INDEMNITY SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT.

6 General

- 6.1. REMBE's relationship with the Customer under this Agreement shall be that of an independent contractor, and nothing in this Agreement or the arrangements for which it is made shall make REMBE, or anyone furnished or used by REMBE in the provision of Products or the performance of the Services, an employee, joint venture, partner, or servant of the Customer.
- 6.2. All Compensation due to REMBE shall be paid in accordance with the terms set forth on the attached Order Confirmation. REMBE may charge Customer a late fee with respect to any overdue balances. In addition, REMBE may charge Customer interest on the outstanding balance of any overdue fees, charges or expenses at a rate equal to 1.5% per month or the highest rate permitted by applicable law, whichever is lower. A service charge will be assessed with respect to any returned or dishonored checks of Customer. Customer will reimburse REMBE for all reasonable costs incurred (including reasonable attorneys' fees) in collecting past due amounts owed by Customer. All payment obligations will survive termination or expiration of this Agreement. Customer acknowledges and agrees that REMBE may cease providing Products or Services under this Agreement during any period in which the Customer has not paid any amounts due to REMBE. All invoices will be sent by REMBE to the Customer address described on the attached Order Confirmation and it shall be Customer's responsibility to notify REMBE of any change of address.
- 6.3. REMBE may terminate this Agreement immediately at any time upon notice to Customer. In such instance, REMBE shall only be responsible to Customer to provide Products or Services for which Customer has already paid REMBE.
- 6.4. This Agreement shall be governed by and construed in accordance with the laws of North Carolina, exclusive of its rules governing choice of law and conflict of laws.
- 6.5. If legal action is commenced by either party to enforce or defend its rights under this Agreement, such action shall be brought only in a court located in Mecklenburg County, North Carolina, and the parties agree to submit to the jurisdiction of such courts.
- 6.6. This Agreement is the complete and exclusive agreement between the parties with respect to the subject matter hereof, superseding and replacing all prior agreements, communications, understandings (both written and oral) regarding such subject matter. This Agreement may only be amended or modified by a writing specifically referencing this Agreement which has been signed by authorized representatives of the parties.
- 6.7. REMBE shall not be in default or breach by reason of any failure in performance of this Agreement, if such failure arises, directly or indirectly, out of causes reasonably beyond the direct control or foreseeability of REMBE, including but not limited to, default by subcontractors or suppliers, failure of Customer to provide promptly to REMBE accurate information and materials, as applicable, inclement weather, acts of God or of a public enemy, acts of terrorism, United States or foreign governmental acts in either a sovereign or contractual capacity, labor, fire, road icing or inclement conditions, flood, epidemic, restrictions, strikes and/or freight embargoes. If any provision of this Agreement is held to be illegal, invalid, or unenforceable, that provision shall be severed or reformed to be enforceable, and the remaining provisions hereof and thereof shall remain in full force. No delay or omission by REMBE in the exercise or enforcement of any of its powers or rights hereunder shall constitute a waiver of such power or right. A waiver by REMBE of any provision of this Agreement must be in writing and signed by such party, and shall not imply subsequent waiver of that or any other provision. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. PDF signature pages shall serve as original signature pages.
- 6.8. Customer agrees that its payment and other obligations under this Agreement are absolute and unconditional and not subject to any abatement, reduction, setoff, defense, counterclaim, or recoupment due or alleged to be due as a result of any past or future claim that Customer may have against REMBE or any of REMBE's affiliates.
- 6.9. Except as otherwise provided herein, each party shall be responsible for the payment of its own expenses incurred in connection with this Agreement.
- 6.10. Customer agrees that it use its best efforts to cooperate with REMBE, and will execute and deliver any and all documents in addition to those expressly provided for herein that may be necessary or appropriate to afford REMBE the opportunity to adequately provide the Products and perform the Services, as applicable.
- 6.11. Customer covenants and agrees with REMBE to provide a safe work environment for REMBE's representatives at all times, free from hazards and conditions that may cause injury or illness to a REMBE representative.
- 6.12. Customer acknowledges and agrees that the Products purchased by Customer from REMBE pursuant to this Agreement contain proprietary, confidential and trade secret information of REMBE and therefore such Products may not be sold, sublicensed, leased, rented, distributed, loaned or otherwise transferred by Customer or any of its employees, agents, affiliates or subcontractors to any third party without REMBE's prior written consent. Further, Customer agrees not to allow the Products to be viewed, analyzed, studied or inspected by any third party without REMBE's prior written consent. All proprietary notices incorporated in, marked on, or affixed to a REMBE Product shall not be altered, removed or obliterated. Customer shall not modify, reverse engineer, disassemble, reverse assemble or reverse compile any REMBE Product or part thereof. Customer agrees to be bound by all applicable third party terms. Neither this Agreement nor any REMBE

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Product may be assigned, transferred, delegated or pledged by Customer (whether by operation of law or otherwise) without REMBE's prior written consent. Any assignment, transfer, delegation or pledge in violation of this Section shall be void and of no effect. This Section 6.12 shall survive the termination of this Agreement.

- 6.13.** All notices under this Agreement shall be in writing and delivered by overnight delivery service or certified mail, return receipt requested, to the address of such party specified on the attached Order Confirmation or as specified by such party in writing to the other party after the date of this Agreement. Notices delivered personally shall be deemed given upon documented receipt or refusal by recipient to accept receipt. Notwithstanding the foregoing, all communications from Customer to REMBE concerning any disputed debts or amounts owed to REMBE by Customer, including, without limitation, any instruments tendered as full or partial satisfaction of a debt or an account receivable, should be sent to REMBE as described above except at the following address: REMBE, Inc., Attn: Disputed Debts, 3809 Beam Road, Suite K, Charlotte, NC 28217,
- 6.14.** At all times during the term of this Agreement, Customer will procure and maintain liability insurance in an amount not less than that customarily maintained in its industry, and in any event, in sufficient amounts to cover Customer's obligations and duties pursuant to this Agreement. All such insurance will name REMBE as an additional insured. Any such insurance will be cancelable or modifiable only upon ten (10) days' prior written notice to REMBE. Customer agrees to provide REMBE with a certificate of insurance upon REMBE's request.