

General Terms and Conditions for Engineering Design and Manufacturing Services

These General Terms and Conditions for Engineering Design and Manufacturing Services shall apply to all such services by Re:Build Manufacturing Solutions, LLC or any other wholly owned subsidiary of Re:Build Manufacturing, LLC (each a “**Re:Build Affiliate**”).

1 Applicability.

- a. These terms and conditions for engineering design and manufacturing services (these “**Terms**”) are the only terms that govern the provision of services by any Re:Build Affiliate (“**Service Provider**”) set forth on any purchase order or request for proposal submitted to Service Provider by a customer or potential customer of Service Provider (“**Customer**”).
- b. Absent a definitive agreement executed by authorized representatives of the Service Provider and Customer, these Terms comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral.
- c. These Terms prevail over any of Customer's general terms and conditions regardless whether or when Customer has submitted its request for proposal, purchase order, or such terms. Provision of services to Customer does not constitute acceptance of any of Customer's terms and conditions and does not serve to modify or amend these Terms. Service Provider objects to any different terms contained in any request for proposal, purchase order, or other communication previously or hereafter provided by Customer to Service Provider. No such additional or different terms or conditions will be of any force or effect.

2 Services and Delivery.

- a. Service Provider shall provide the services to Customer as described in the proposal or statement of work (collectively, “**SOW**”) issued by Service Provider to Customer (the “**Services**”) in accordance with these Terms.
- b. Goods produced by Service Provider will be delivered within the timeline set forth in the SOW (except as mutually agreed by the parties in accordance with these Terms). Service Provider shall not be liable for any delays, loss, or damage in transit.
- c. Delivery shall be Ex Works Service Provider's facility (the “**Delivery Point**”).

- d. Service Provider may, in its sole discretion, without liability or penalty, make partial shipment of goods to Customer. Each shipment will constitute a separate sale, and Customer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Customer's purchase order.
- e. If Service Provider is unable to deliver the goods at the Delivery Point because Customer has not provided appropriate instructions, documents, licenses or authorizations: (i) risk of loss to the goods shall pass to Customer; (ii) the goods shall be deemed to have been delivered; and (iii) Service Provider, at its option, may store the goods until Customer picks them up, whereupon Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

3 Performance Dates.

Service Provider shall use reasonable efforts to meet any performance dates specified in the SOW and will endeavor to provide reasonable advance notice to Customer if performance dates will not be met.

4 Customer's Obligations.

Customer shall:

- a. cooperate with Service Provider in all matters relating to the Services and provide such access to Customer's premises, and such office accommodation and other facilities as may reasonably be requested by Service Provider, for the purposes of performing the Services;
- b. respond promptly to any Service Provider request to provide direction, information, approvals, authorizations, or decisions that are reasonably necessary for Service Provider to perform Services in accordance with the requirements of these Terms;
- c. provide such Customer materials or information as Service Provider may reasonably request to carry out the Services in a timely manner and ensure that such Customer materials or information are complete and accurate in all material respects; and
- d. obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the Services before the date on which the Services are to start.

5 Customer's Acts or Omissions.

If Service Provider's performance of its obligations under these Terms is prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants, or employees, Service Provider shall not be deemed in breach of its obligations under these Terms or otherwise liable for any costs, charges, or losses sustained or incurred by Customer, in each case, to the extent arising directly or indirectly from such prevention or delay.

6 Change Orders.

Each party acknowledges that changes to the Services and/or any deliverables may be necessary or desirable. Accordingly, if either party believes that a non-*de minimis* change to the Services or any deliverable is necessary or desirable, the parties shall discuss in good faith changes to such Services and/or deliverables, taking into consideration (a) the estimated impact on the Services (including projected timelines), if any, and the modifications to the Services that will be required as a result of such changes, and (b) an estimate of the cost to implement such changes. For the avoidance of doubt, no changes to the Services or any deliverables (including any changes to the specifications), will be effective until the parties mutually agree in writing.

7 Fees and Expenses; Payment Terms; Interest on Late Payments.

- a. In consideration of the provision of the Services by Service Provider and the rights granted to Customer under these Terms, Customer shall pay the fees set forth in the purchase order.

- b. Customer agrees to reimburse Service Provider for all reasonable travel and out-of-pocket expenses incurred by Service Provider in connection with the performance of the Services.
- c. Customer shall pay all invoiced amounts due to Service Provider within thirty (30) days from the date of Service Provider's invoice unless Service Provider has specified otherwise in writing. Customer shall make all payments by ACH, wire transfer, or check and in US dollars.
- d. Customer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly.
- e. In the event payments are not received by Service Provider within 30 days after becoming due, Service Provider may suspend performance for all Services until payment has been made in full. Service Provider shall be entitled to recover from Customer all costs and expenses incurred by Service Provider in collecting amounts owed by Customer to Service Provider hereunder, including without limitation, reasonable attorneys' fees and costs of collection.

8 Taxes.

Customer shall be responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by Customer hereunder.

9 Intellectual Property; Tooling.

- a. Intellectual Property. All intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how and other confidential information, trade dress, trade names logos, corporate names and domain names, together with all of the goodwill associated therewith, derivative works and all other rights (collectively, "**Intellectual Property Rights**") in and to all documents, work product and other materials that are delivered to Customer under these Terms or prepared by or on behalf of the Service Provider in the course of performing the Services, including any items identified as such in an SOW (collectively, the "**Deliverables**"), except for any Confidential Information (defined below) of Customer or Customer materials, shall be owned by Service Provider. Upon payment in full of all Service fees, Service Provider hereby grants Customer a license to use all Intellectual property Rights in the Deliverables free of additional charge and on a non-exclusive, non-transferable, non-sublicensable, fully paid-up, royalty-free and perpetual basis to the extent necessary to enable Customer to make reasonable use of the Deliverables and the Services.
- b. Tooling. All tooling acquired or created by Service Provider and used to manufacture products for Customer is owned by Service Provider. Customer has no right, title, or interest in or to any of the tooling.

10 Confidential Information.

If Service Provider and Customer have entered into a separate confidentiality or nondisclosure agreement, such agreement shall control with respect to the Confidential Information of the parties. Otherwise, the provisions of this Section 10 shall apply:

- a. "Confidential Information" means any and all technical and non-technical information provided by either Service Provider or Customer to the other whether or not in writing, including but not limited to trade secrets and proprietary information such as ideas, techniques, sketches, drawings, inventions, know-how, processes, algorithms, software programs and source code, models, formulae, methodologies, research, development, design details, customer information, forecasts, and marketing plans of the disclosing party. "Confidential Information" does not include information that is now or becomes generally available to the public other than as a result of a disclosure by the receiving party in violation of this Section 10, was

available to the receiving party on a non-confidential basis prior to the disclosure by the disclosing party, or becomes available to receiving party from a source not known to be bound by an obligation of confidentiality to disclosing party, or is independently developed by receiving party without reference to the Confidential Information of disclosing party.

- b. Receiving party agrees that it will at all times hold the Confidential Information of disclosing party in strict confidence and not disclose (other than to receiving party's representatives bound by similar confidentiality obligations) the same except as approved in writing by disclosing party. Receiving party will use the Confidential Information solely to the extent required for receiving party to perform its obligations under these Terms. Customer acknowledges and agrees that Service Provider may use Confidential Information provided by Customer to train AI tools used in the performance of the Services.
- c. Upon written request by disclosing party, receiving party will return or destroy all Confidential Information of disclosing party in receiving party's possession. This obligation does not extend to Confidential Information contained in the receiving party's routine IT backup or disaster recovery systems; provided that the confidentiality and non-use obligations in this Section 10 shall continue to apply to such information.
- d. Receiving party acknowledges that its breach of the provisions of this Section 10 may cause irreparable damage and agrees that disclosing party is entitled to seek injunctive relief, in addition to all other rights and remedies available at law or in equity.

11 Representation and Warranty.

- a. Service Provider represents and warrants to Customer:
 - i. that it shall perform the Services in accordance with the degree of professional skill, quality, and care ordinarily exercised by members of the same profession currently practicing in the same location under comparable circumstances and shall devote adequate resources to meet its obligations under these Terms;
 - ii. For a period of six (6) months from the date of shipment of any goods manufactured by Service Provider as part of the Services (the "**Warranty Period**"), each good so manufactured will materially conform to the specifications provided in writing by Customer and accepted by Service Provider, and will be free from significant defects in material and workmanship; and
 - iii. Customer will receive good and valid title to all goods manufactured by Service Provider as part of the Services, free and clear of encumbrances and liens of any kind.
- b. The Service Provider shall not be liable for a breach of the warranty set forth in [Section 11\(a\)](#) unless Customer gives written notice of the defective Services, reasonably described, to Service Provider promptly upon Customer discovering that the Services were defective and in all cases, prior to the expiration of the Warranty Period.
- c. Subject to [Section 11\(b\)](#), Service Provider shall repair the defective part or re-perform such Services.
- d. **THE REMEDIES SET FORTH IN [SECTION 11\(c\)](#) SHALL BE THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND SERVICE PROVIDER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN [SECTION 11\(a\)](#).**

12 Disclaimer of Warranties.

EXCEPT FOR THE WARRANTY SET FORTH IN SECTION 11(a) ABOVE, NEITHER SERVICE PROVIDER NOR ANY PERSON ON SERVICE PROVIDER'S BEHALF HAS MADE OR MAKES ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER, EITHER ORAL OR WRITTEN, WITH RESPECT TO THE

SERVICES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT, WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED, AND CUSTOMER ACKNOWLEDGES THAT IT HAS NOT RELIED UPON ANY REPRESENTATION OR WARRANTY MADE BY SERVICE PROVIDER, OR ANY OTHER PERSON ON SERVICE PROVIDER'S BEHALF, EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 11(a).

13 Indemnification; Limitation of Liability.

- a. Service Provider will indemnify Customer from loss or damage arising out of Service Provider's gross negligence or willful misconduct in its performance of the Services.
- b. **IN NO EVENT WILL SERVICE PROVIDER OR ITS REPRESENTATIVES BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THESE TERMS, REGARDLESS OF (i) WHETHER SUCH DAMAGES WERE FORESEEABLE, (ii) WHETHER OR NOT SERVICE PROVIDER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (iii) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**
- c. **IN NO EVENT SHALL SERVICE PROVIDER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID OR PAYABLE TO SERVICE PROVIDER PURSUANT TO THESE TERMS.**
- d. **ASSUMPTION OF RISK. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, CUSTOMER ASSUMES ALL RISK AND LIABILITY FOR THE RESULTS OBTAINED BY THE USE OF ANY GOODS OR PRODUCTS MANUFACTURED BY SERVICE PROVIDER HEREUNDER IN THE PRACTICE OF ANY PROCESS, WHETHER IN TERMS OF OPERATING COSTS, GENERAL EFFECTIVENESS, SUCCESS OR FAILURE, AND REGARDLESS OF ANY ORAL OR WRITTEN STATEMENTS MADE BY SERVICE PROVIDER, BY WAY OF TECHNICAL ADVICE OR OTHERWISE, RELATED TO THE USE OF SUCH GOODS OR PRODUCTS.**
- e. The limitation of liability set forth in Section 13(b) above shall not apply to liability resulting from Service Provider's gross negligence or willful misconduct.

14 Termination.

In addition to any remedies that may be provided under these Terms, Service Provider may terminate these Terms with immediate effect upon written notice to Customer, if Customer:

- a. fails to pay any amount when due under these Terms and such failure continues for 10 days after Customer's receipt of written notice of nonpayment;
- b. has not otherwise performed or complied with any of the terms of these Terms, in whole or in part; or
- c. becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

15 Insurance.

During the term of these Terms and for a period of twelve (12) months thereafter, each of Service Provider and Customer will, at its own expense, maintain and carry in full force and effect commercial general liability insurance

(including product liability coverage) in a sum no less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate with financially sound and reputable insurers, and upon the other party's request, will provide the other party with a certificate of insurance evidencing the insurance coverage specified in this Section. Each of Service Provider and Customer will provide the other with ten (10) days' advance written notice in the event of a cancellation or material change in such insurance policy.

16 Waiver.

No waiver by Service Provider of any of the provisions of these Terms is effective unless explicitly set forth in writing and signed by Service Provider. No failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from these Terms operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

17 Force Majeure.

No party shall be liable or responsible to the other party, or be deemed to have defaulted under or breached these Terms, for any failure or delay in fulfilling or performing any term of these Terms (except for any obligations to make payments to the other party hereunder), when and to the extent such party's (the "**Impacted Party**") failure or delay is caused by or results from the following force majeure events ("**Force Majeure Event(s)**"): (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or action; (e) embargoes or blockades in effect on or after the date of these Terms; (f) national or regional emergency; and (g) strikes, labor stoppages or slowdowns. The Impacted Party shall give notice within 10 days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of 60 days following written notice given by it under this Section 17, the other party may thereafter terminate these Terms upon 15 days' written notice.

18 Export Regulation

Customer shall comply with all export and import laws of all countries involved in the sale of goods or provision of Services under these Terms, including any resale of goods by Customer. Customer assumes all responsibility for shipments of goods requiring any government import clearance and agrees that Service Provider is not the exporter of record. Customer shall notify Service Provider prior to sending any materials, documentation, or related technical data that is export-controlled.

19 Assignment.

Customer shall not assign, transfer, delegate, or subcontract any of its rights or delegate any of its obligations under these Terms without the prior written consent of Service Provider. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Customer of any of its obligations under these Terms. Service Provider may assign or transfer all or any part of its rights or obligations under these Terms to an affiliate without Customer's prior written consent.

20 Relationship of the Parties.

The relationship between the parties is that of independent contractors. Nothing contained in these Terms shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

21 No Third-Party Beneficiaries.

These Terms are for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

22 Governing Law.

All matters arising out of or relating to these Terms are governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of New York.

23 Submission to Jurisdiction.

Any legal suit, action, or proceeding arising out of or relating to these Terms shall be instituted in the federal courts of the United States of America or the courts of the Commonwealth of Massachusetts in each case located in Middlesex County and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

24 Notices.

All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a “**Notice**”) shall be in writing and addressed to the parties at the addresses set forth on the face of the purchase order or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), email (with confirmation of receipt), or certified or registered mail (in each case, return receipt requested, postage prepaid), in each case with a copy of all Notices to Service Provider via email to legal@rebuildmanufacturing.com. Except as otherwise provided in these Terms, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

25 Severability.

If any term or provision of these Terms is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of these Terms or invalidate or render unenforceable such term or provision in any other jurisdiction.

26 Survival.

Provisions of these Terms, which by their nature should apply beyond their terms, will remain in force after any termination or expiration of these Terms.

27 Amendment and Modification.

These Terms may only be amended or modified in a writing which specifically states that it amends these Terms and is signed by an authorized representative of each party.