

RJR TECHNOLOGIES

TERMS AND CONDITIONS OF SALE

1. **GOVERNING PROVISIONS:** The following terms and conditions of sale apply to all quotations made and purchase orders entered into by the seller's (RJR Technologies, Inc. [hereinafter referred to as "RJR"]) acceptance of the Buyer's order. Such acceptance is made only with the express understanding and condition that insofar as the terms and conditions of this acceptance conflict with any of the terms and conditions of the Buyer's order, the terms and conditions stated herein in this acceptance and no others, govern the entire transaction of sale without written acknowledgment by the Buyer. The failure of the Buyer to object in writing within ten (10) days from the receipt thereof, shall constitute acceptance hereto. No additions or modifications of any terms and conditions hereof shall be effective unless made in writing and signed by RJR.
2. **PRICE CHANGES:** RJR reserves the right to change its price, without notice, prior to the acceptance of the customer's purchase order, unless RJR has issued a firm price quotation that specified an expiration date.
3. **PURCHASE ORDER MODIFICATIONS:** An accepted purchase order may not be varied, modified, or changed without written approval of RJR. Orders are not deemed accepted and will not be processed without the receipt of the original (or facsimile copy) Purchase Order.
4. **NON-RECURRING ENGINEERING CHARGES:** Customers who order a new designed part(s) will be assessed a one-time Non-recurring engineering (NRE) and/or tooling charge. Said charge does not constitute the purchase of the engineering or tooling. All such tooling or engineering will remain the property of RJR, even though they may be reserved for the customer's exclusive use, RJR will not be obligated to retain such tooling beyond two (2) years after its last date of use.
5. **DELIVERY:** All prices are Ex Works our manufacturing facility. The cost of freight and transit insurance will be billed to the customer, either collect or prepaid. All shipments are subject to a fifteen-dollar (\$15) handling charge. All shipments will be insured, unless customer instructs RJR otherwise. ARO is herein defined as when RJR accepts the customer purchase order. Therefore, acceptance triggers the lead time.
6. **QUOTATIONS:** Our standard quotations are based upon a specific quantity of parts per shipment. If the quantities shipped are changed by the customer after the Purchase Order has been accepted, we reserve the right to reprice the parts at the price that would have been charged for the quantity level actually shipped in accordance with the quotation. By special arrangement, such charges can be accumulated and billed on a quarterly basis if the order covers a period of six months or more.
7. **SHIPPING DATES:** Shipping dates are approximate and represent RJR's best judgment at the time of issuance of a quote. Normal production time for an order is three (3) weeks after receipt of the purchase order or the required parts, whichever is later contingent upon inventory availability.
8. **DELIVERY DATES:** An order's delivery date can be changed, without charge, if the customer notifies RJR six (6) weeks prior to the scheduled delivery date. If the customer changes the delivery date, to a date which requires delivery to be less than three (3) weeks, the change will be subject to an expedite charge (see item 9 below). An order can only be pushed out for sixty (60) days without it being deemed cancelled. Orders that are cancelled are subject to cancellation charges (see item 20 below).
9. **EXPEDITE CHARGES:** Expedite service charges will be applied to any order or release of an order that either requires a shipping date of less than three (3) weeks or a guaranteed shipping date. An expedite charge of five hundred dollars (\$500) or twenty-five percent (25%) of the dollar value of the order, whichever is greater, will be added to the invoice price if the required shipment date is more than one (1) week, but less than three (3) weeks. An expedite charge of seven hundred fifty (\$750) or fifty percent (50%) of the dollar value of the order, whichever is greater, will be added to the invoice price if the required shipment date is less than one (1) week.

10. **MINIMUM LOTCHARGES:** Unless otherwise stated in in our issued quotation to the contrary, our minimum lot charge for lids with B stage epoxy starts at one thousand seven hundred fifty dollars (\$1,750.00) but is subject to change commensurate with the outside material vendors minimum lot charge. The minimum lot charge for Glass and any other flat designs that require special epoxy application is one thousand nine hundred fifty dollars (\$1,950.00) but subject to change contingent upon complexity of the process and or the minimum lot charge for any outside service that may be related to the customer's specific application. The minimum lot Charge for packages is three thousand five hundred dollars (\$3,500.00). Shipments for which the total part/unit value is less than the applicable minimum lot charge will be billed the appropriate minimum charge rather than the quoted piece price.
11. **DELAYS:** RJR shall not be held liable for any delay in shipment or delivery of products or for damages suffered by the customer when such delay is directly or indirectly caused by, or in any manner arises from, fires, floods, accident, riots, wars, labor disputes, shortages of materials, delays of carriers or suppliers, acts of God, or other causes of delay beyond the reasonable control of RJR, including any regulations of the U.S. Government or any of its departments.
12. **ANY AND ALL CLAIMS :** Any and all Claims of any kind, which include but is not limited to: out of specification products, shortages or damage in transit, etc. , shall be valid only if made in writing and if received by RJR within thirty (30) days after receipt of such shipment.
13. **REPLACEMENTS OR CREDITS:** RJR, at its option, will repair or credit any product which is not in accordance with the product specifications set forth in a customer's order as accepted by RJR, but only upon customer compliance with all of the following requirements: a) the customer giving written notice (e-mail is acceptable written notice) to RJR that the parts are out of specification. The notification must include: the RJR part number, lot number, date of manufacturing and date received by customer, b) the customer sending samples of the rejected parts to RJR within two weeks of notification of defect discovery, c) acceptance by RJR of both the customers notification and upon RJR's review of the rejected parts to verify that the parts are out of specification, d) RJR's receipt of the returned parts within thirty (30) days from RJR's issuances of the RMA number for said product, and e) RJR's issuance of a Returned Material Authorization (RMA). Products will not be accepted for return unless the customer has first obtained from RJR an RMA number. The customer shall bear the risk of return shipments and shall retain title until said product has been accepted by RJR.
14. **PRODUCTION STANDARDS AND LIABILITY:** Parts and material shall conform to the drawings and specifications referred to herein, and in the absence of incompleteness of the same, shall be in accordance with RJR's standard tolerances, manufacturing specifications, inspection and procedures. RJR assumes no liability beyond its billing price, nor does it assume any liability for expenses or consequential damages incurred as a result of using its products.
15. **TAXES:** Taxes or other governmental charges on the production, sale and/or delivery of any product, materials or goods included in the order are payable by the customer, unless a resale card is on file at RJR. Out-of-state sales, where goods have been shipped by common carrier, are not subject to CA sales tax.
16. **TERMS:** RJR's sales terms are net thirty (30) days. RJR reserves the right to assess a finance charge of one and one-half percent (1.5%) per month (18% annual percentage rate) on all orders which are not paid within thirty (30) days from the invoice date.
17. **BUYER'S PATENTS:** The Buyer shall hold the Seller harmless against any expenses or losses resulting from infringement of patents or trademarks arising from compliance with Buyer's designs, specifications or instructions and shall defend any suit or proceeding brought against the Seller based on a claim that any products being furnished under this contract constitutes an infringement of any patent if such product is being manufactured by Seller to Buyer's designs, specifications, or instructions. No other warranties or non-infringement shall be implied.
18. **SELLER'S PATENTS:** Buyer understands that any equipment purchased from Seller is subject to a patent and agrees not to produce or modify said equipment without the prior written consent of the Seller. Buyer further agrees to maintain strict confidentiality on said equipment.
19. **CUSTOMER PARTS:** RJR assumes no responsibility for any customer-furnished parts (herein referred to as CFM parts). RJR guarantees only ninety-eight percent (98%) return of CFM parts. If a customer's parts received have more than a one percent (1%) overage between what is deemed shipped and what RJR receives, RJR reserves the right to bill the customer's for the addition parts. RJR will not perform incoming inspection on customer furnished parts unless the associated service charge is included on the customer purchase order. RJR's minimum inspection fee is \$250.00 or \$75.00 per hour whichever is greater.

- 20. CANCELLATION:** The Buyer can cancel their order at any time but only upon payment of the Seller's cancellation charges and all outstanding invoices (including service charges, inventory charges, etc.). If orders are canceled before being completed, Buyer is liable for all costs of raw materials ordered by Seller pursuant to the Buyer's purchase order, plus any other cost incurred to date to stop the order, plus overhead charges and 25% profit. In all cases, said cancellation fee will not be greater than the amount of Buyer's outstanding balance of their purchase order.
- 21. ATTORNEY'S FEES:** Should RJR resort to legal proceedings in connection with a collection of any sums due and payable to RJR Technologies Inc. The prevailing party in such legal proceedings shall be entitled, in addition to such other relief as may be granted, to recover its or their reasonable attorney's fees and all of its costs in such legal proceedings from the non-prevailing party. The arbitrator shall be empowered to award such fees and costs as part of the arbitration award.
- 22. GOVERNING LAW:** The validity, construction, and effect of any order placed with RJR shall be subject to the laws of the State of California where the product is produced.