

Terms and Conditions

ENTIRE AGREEMENT The entire agreement between Fusion Systems Incorporated d/b/a RoboJob-USA ("Fusion") and Customer consists of: (a) these Terms and Conditions, (b) Fusion's proposal ("Proposal"), (c) the written requirements of Customer (if any) that are signed by Fusion or attached to the Proposal and, (d) if applicable, Customer's later purchase orders to the extent they do not contain any inconsistent or contrary terms or conditions (all of which are expressly rejected by Fusion) to those set forth in the foregoing documents (collectively "Contract"). If Customer has indicated its acceptance of Fusion's right to create and use a promotional video of Customer's process in return for a discount, then the terms of a Video Rider shall also be included as a part of the Contract. The Contract may only be modified by a written change order signed by both Customer and Fusion. To the extent these Terms and Conditions are inconsistent with the Proposal or Customer's written requirements (if any) or any of Customer's purchase orders, these Terms and Conditions shall take priority. To the extent the Proposal is inconsistent with the Customer's written requirements (if any) attached to the Proposal or any of Customer's purchase orders, the Proposal shall take priority.

INTELLECTUAL PROPERTY Except for "off-the-shelf" third-party software or hardware supplied by Fusion, Fusion retains all rights, title and interest in its services and deliverables, including all patents and copyrights; however, upon payment of the agreed compensation to Fusion, Customer will be deemed to have been granted a non-exclusive, non-transferable, royalty-free, perpetual license to use the services and deliverables for the purposes contemplated in the Proposal, except that "off-the-shelf" third-party software or hardware provided through Fusion will be subject to Customer's compliance, at its own costs, with all applicable third-party licensing requirements. Customer may not sell, sublicense, assign or transfer its license to the services and deliverables provided by Fusion without the prior written consent of Fusion, nor may Customer reverse engineer or make derivative works from the services or deliverables. Customer shall ensure that it or any third-party customer is in possession of valid licenses for all intellectual property not provided by Fusion that is used for the project, and shall defend, indemnify, and hold harmless Fusion from and against all costs and losses, including attorneys' fees, as a result of any and all claims by alleged owners of such intellectual property. Fusion makes no warranty regarding the effect of such intellectual property on the performance of the intellectual property to be supplied by Fusion for the project and Fusion shall be released from any warranties given to Customer to the extent that non-Fusion intellectual property causes or contributes to problems.

TAXES Prices stated in the Contract do not include any tax, excise, duty or levy now or hereafter enacted or imposed, by any governmental authority on the manufacture, sale, delivery and/or use of any item delivered. An additional charge will be made therefore and paid by Customer unless Fusion is furnished with a proper exemption certificate relieving Fusion of paying or collecting the tax, excise, duty or levy in question.

LIABILITY The total liability of Fusion to Customer for any loss, indemnity, damage, or delay of any kind will not under any circumstances exceed the amount paid under this Contract. Under no circumstances will Fusion be liable for any loss, indemnity damage or delay arising out of its failure to perform due to causes beyond its reasonable control, including, without limitation, acts of God, interference by others, delays in receiving approvals or necessary information from Customer (including a higher-tier party and/or the ultimate owner), fires, strikes, floods, war, terrorism, riots, delays in transportation and adverse weather. Under no circumstances will Fusion be liable for any special, incidental, or consequential damages based on breach of warranty, breach of contract, negligence, gross negligence, strict liability, products liability, or any other legal theory.

IDEMNITY To the fullest extent permitted by law unless arising from Fusion's sole negligence, Customer shall indemnify, defend and hold harmless Fusion, its subcontractors, and its consultants, and any of their partners, joint ventures, representatives, members, designees, officers, directors, shareholders, employees, agents, successors, and assigns, from and against any and all third-party claims against Fusion, including, but not limited to, claims for bodily injury, death or damage to property, damages, suits, losses, judgments, obligations, liabilities, investigative costs, repair costs, attorneys' fees and costs, expert fees and costs and consultant fees and costs, including those arising from the Customer's obligations to maintain the health and safety of its premises, facility, equipment, fixtures, practices and procedures, employees, agents, and independent contractors, or arising from the preexisting conditions of the Customer's premises, facility, equipment, fixtures, or practices and procedures, or arising from the conditions of the Customer's premises, facility, equipment, fixtures, or practices and procedures.

TERMINATION If Customer fails to comply with its obligations under the Proposal or these terms and conditions (including without limitation the full and timely payment to Fusion), Fusion may provide written notice of such default to Customer and may thereafter suspend further performance until such default is cured by Customer. When such default is cured by Customer, the amount to be paid for the scope of work will be equitably increased to account for Fusion's damages arising from such suspension (including without limitation demobilization and remobilization expenses and increased costs of performance) and the time for Fusion to complete the scope of work will be equitably extended to account for such suspension. If Customer fails to cure such default within 30 days of its receipt of such notice from Fusion, Fusion may terminate its agreement with Customer by providing written notice to Customer and in such an event, Customer will pay Fusion for all portions of the scope of work performed (in whole or in part) through the date of such termination, Fusion's demobilization expenses and other reasonable termination costs, the amount of expected overhead and profit Fusion would have earned on the cancelled portions of the scope of work if not for Customer's default, and any collection costs, including attorneys' fees, incurred by Fusion in obtaining payment for its services and deliverables from Customer.

NO ASSIGNMENT Customer may not assign its rights under this contract without the prior express written consent of Fusion. Both Customer and Fusion agree that there are no third-party beneficiaries to the Contract.

INSPECTION, TESTING AND ACCEPTANCE Any inspection by Customer or ultimate owner of products on Fusion's premises shall be scheduled in advance to be performed during normal working hours. If the Contract provides for factory acceptance testing, Fusion shall notify Customer or ultimate owner when Fusion will conduct such testing prior to shipment. Unless Customer or ultimate owner states specific objections in writing within ten (10) days Fusion will assume that the recommended dates have been accepted by Customer or ultimate owner. If the Contract provides for site acceptance testing, testing will be performed by Fusion personnel to verify that the product has arrived at the site complete, without physical damage, and in good operating condition. Completion of all required testing constitutes full and final acceptance of the product. If, through no fault of Fusion, acceptance testing is not completed within thirty (30) days after arrival of the product at the site, the site acceptance test shall be deemed completed and the product shall be deemed accepted.

WARRANTY AND LIMITATIONS For the warranty period agreed between the parties, Fusion warrants to Customer that all services will be performed in a workmanlike manner consistent with current and generally recognized standards in the industry. In no event will Fusion be responsible for (a) any modifications to any services or deliverables made by anyone other than Fusion; (b) damages caused by misuse, improper operation or improper or insufficient maintenance of any services or deliverables; (c) normal wear and tear; (d) any data loss or corruption or personal information data breach; or (e) any alleged defects in any services or deliverables that arise from Fusion's compliance with designs or other criteria or requirements provided by or through Customer. Deliverables not created by Fusion are warranted only to the extent of the express written warranties of the manufacturer(s) of such items delivered to Customer by Fusion as a part of the project. Fusion MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND ANY OTHER WARRANTIES (INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE/AGAINST INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE) ARE EXPRESSLY DISCLAIMED BY Fusion TO THE FULLEST EXTENT PERMITTED BY LAW.

In the event Customer believes Fusion owes a warranty obligation applicable to the services or deliverables or has failed to comply with any other contract obligation, it must notify Fusion in writing within 20 days of its discovery of such obligation or non-compliance and in no event later than 90 days after completion of the applicable services or deliverables. If Fusion owes a warranty obligation, it will promptly commence to remedy and cure such default upon receipt of such notice from Customer at Fusion's own cost and expense or, at Fusion's option, will refund to Customer the portion of the compensation paid for any defective services or deliverables. Such performance by Fusion is Customer's sole and exclusive remedy in the event of a warranty obligation of Fusion or any other failure of Fusion to comply with its contract obligations.

COVENANT NOT TO SOLICIT EMPLOYEES Commencing immediately and continuing until a date one (1) year after the date of final completion of all obligations under this Contract, Customer agrees not to directly or indirectly employ, solicit for employment, or advise or recommend to any other person that such other person employ or solicit for employment, any person employed by or under contract to Fusion. In the event of a breach of this covenant, the parties agree that the damage to Fusion shall be difficult to assess. Accordingly, Customer shall pay to Fusion as liquidated damages and not a penalty a cash amount equal to one (1) year's salary of the solicited employee, which the parties agree is a reasonable and proportionate estimate of the actual damages to be suffered by Fusion as a result of such breach.

CHOICE OF LAW This contract shall be construed under and governed by the laws of the State of Illinois, USA.

SAVINGS AND WAIVER If any term of the Proposal or these terms and conditions is found to be unenforceable, the remaining terms will remain in effect. The failure of either Fusion or Customer to exercise any rights under their agreement will not be deemed a waiver of such right except as agreed in writing or as otherwise set forth in these terms and conditions.

ARBITRATION All claims arising out of this Contract shall be subject to arbitration before a single arbitrator in accordance with the Construction Arbitration Rules of the American Arbitration Association. The place of the arbitration will be Chicago, Illinois.