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## General Terms and Conditions of Reiloy USA Corp. – Purchase Order

### 1. Scope

These Terms and Conditions shall apply to all goods ("Goods") and services ("Services") sold or provided by vendor or service provider ("Vendor") to Reifenhäuser, Inc. ("Reiloy", "we," "us" or "our"), including specifically all quotes, contracts, deliveries, purchase orders and commitments regardless of how memorialized. Any of Vendor's terms or conditions which conflict with or deviate from these Terms and Conditions shall not apply, unless we have explicitly agreed to them in writing and even if any documentation of Vendor expressly states to the contrary. These Terms and Conditions shall also continue to apply and control even if we unreservedly accept the Services or Goods with knowledge of Vendor's terms and conditions which conflict with or deviate from these Terms and Conditions.

### 2. Services

2.1 Protocols for the acceptance of Services shall be expressly set forth in the applicable purchase order or statement of work.

2.2 We may in our discretion request changes to the scope or manner of Services, even after the formal acceptance of a purchase order or contract, if such changes could reasonably be anticipated by Vendor due to the nature or scope of the Services being contracted for. If any such changes result in additional or reduced costs or the date of performance, the price and schedule of performance shall be reasonably adapted by the mutual agreement of Reiloy and Vendor.

2.3 All stated due dates for performance, deadlines and time periods for performance are firm, time being of the essence. In addition to our rights under Section 6, in the event of delay through no fault of Reiloy, as liquidated damages and acknowledged by Vendor as being reasonable restitution and not a penalty, Vendor will pay an additional fee, accruing at the rate of one percent (1%) per week of the net order sum for each full week that the agreed date of performance is exceeded. Provided, if Reiloy in its sole discretion determines that (i) the late performance relates only to a portion of the Services; and (ii) such delay does not impair the utility of the already provided portion of the Services, the fee may be calculated on the basis of the net order sum attributable to the delayed unperformed portion of the Services. In all events, the amount of liquidated damages shall be limited to five percent (5%) of the net order sum. Provided, the foregoing payment is not our exclusive remedy and Reiloy expressly reserves the right to exercise all further and other equitable and legal rights, including but not limited to cancelling the agreement or purchase order and seeking monetary damages as may be allowed by Laws. It is understood that the foregoing does not grant Vendor the right to partially perform Services or excuse full and timely performance.

2.4 If Vendor anticipates that it potentially may not or will not be able to timely comply with dates of performance or periods for Services, it shall notify us of this potential delay or failure, stating the reasons and expected duration of such delay.

2.5 Vendor may not utilize subcontractors to perform Services without our express prior written consent. Such consent shall not release Vendor from being primarily liable for the performance of such Services. Vendor warrants that all subcontractors shall possess the necessary skills, knowledge and certification necessary to timely and fully perform all such Services.

### 3. Certificates of origin/product; export restrictions

3.1 As to Goods, Vendor shall promptly make available all certificates requested by us (e.g. suppliers' declarations, movement certificates, manufacturers' declarations of conformity), complete with all details and properly signed without charge or fee. This obligation shall also apply to all documents which are required for the use, installation, assembly, processing, storage, the operation, servicing, inspection, maintenance and repair of all Goods and the results of all Services.

3.2 If any Goods or Services are subject to foreign trade regulations under any state, federal, foreign or other Laws, Vendor shall obey all relevant provisions, and such compliance shall be its responsibility and at its cost. Vendor shall obtain any required export permits, including for us. If Vendor is unable to obtain any required export permit, we shall be entitled to cancel the contract.

### 4. Issue of invoices/Documentation

4.1 Quotations or unsolicited orders issued by Vendor shall always be non-binding and without obligation, i.e. they are deemed to be merely as an invitation to submit an offer. Acceptances and all purchase orders submitted by us shall be legally effective only if confirmed by Vendor in writing or if Vendor actually ships the Goods or performs the Services in accordance with the purchase order submitted by Reiloy.

4.2 Each order shall require a separate invoice. Each invoice must meet the requirements of all applicable federal, state and foreign tax laws (e.g., sales, use or transaction taxes or assessments) and shall describe the Services rendered or Goods sold in a clear and understandable manner, stating our order number.

4.3 The quantities, contents and numbers of pieces we have acknowledged shall be decisive for the calculation or payment or the determination of full performance or delivery.

4.4 All shipped Goods shall be properly identified with our purchase order number and any purchase order item number or other identification number displayed. Vendor accepts full responsibility for the completeness and accuracy of all transport and customs documentation provided to us. Vendor accepts all liabilities and risks resulting from incomplete or inaccurate data on shipping documents or failure to comply with any import or export requirements.

### 5. Payment conditions

5.1 All purchase prices shall include all taxes, custom duties or other governmental charges due. Provided, we will pay for any taxes that we are required by statute to pay on the condition that Vendor provides Reiloy with documentation satisfactory to us that establishes our liability to pay such taxes. However, if Vendor fails to provide such documentation, we shall not be obligated to pay such taxes. Vendor shall be responsible for all shipping and insurance costs, including without limitation, packing, crating, cartage and freight costs.

5.2 All payments shall be made only after completion of Services or acceptance of Goods, unless expressly agreed to by us in the applicable purchase order, and the receipt of an invoice. All amounts are shall be eligible for either a cash discount of 3% if paid within 14 days of invoice or no interest if paid within 30 days of invoice.

5.3 We will only be obligated to make advance payments if expressly agreed by us and, in all events only if Vendor provides us with

reasonable assurances of performance and sufficient security, e.g. through a performance bond of a federally chartered bank located in the United States.

5.4 If there are delays in payment, we are only obliged to pay interest at a rate equal to 2% above the published U.S. Prime Rate in effect when payment is due.

5.5 We shall be entitled to set-off rights and rights of retention to the extent provided by applicable Laws. In addition, we may also set off against all claims that affiliated companies of Reifenhäuser may also have against Vendor even if a transaction unrelated to these Terms and Conditions is involved. We will inform Vendor in detail about the companies which benefit from this section upon request.

#### **6. Transfer of Risk - Goods/Delay of Delivery or Performance**

6.1 For domestic deliveries, all deliveries are F.O.B. Reiloy's premises (i.e., Maize, Kansas), freight prepaid and allowed. For international deliveries, all deliveries are DAP (Incoterms 2010) Reiloy's premises (i.e., Maize, Kansas). Accordingly, the risk of loss is transferred to Reiloy only when the Goods are received by Reiloy at our premises.

6.2 Vendor shall not be liable in the event that the delivery of Services or any shipment of Goods is delayed due to events or conditions constituting force majeure or due to events that make it significantly more difficult or impossible for Vendor to make the delivery, including for example, war (declared or otherwise), war-like situations, civil unrest, revolutions, rebellions, military or civilian coups, revolt, tumult, riots, blockades, embargoes, governmental orders, sabotage, strikes, go-slow actions, lockouts, epidemics, fire, flooding, storm surges, typhoons, hurricanes or other severe weather conditions equal to the level of a disaster, earthquakes, lightning strikes, industry wide shortages in materials, piracy, shipwrecks, lack of port and unloading capacities, or serious transport accidents, However, Reiloy may unilaterally cancel any as-yet unfulfilled portion of any purchase order if such delay or disruption has continued for thirty (30) days or more.

6.3 Any waiver granted by us will be limited to the circumstances or event specifically referenced in any waiver document and shall not be deemed a waiver of any different or subsequent obligation or the recurrence of a same circumstance or event upon recurrence.

6.4 If Vendor fails to timely deliver or perform, and Reiloy has in its sole discretion granted an extension period, Reiloy may nevertheless upon the expiration of such extension period immediately cancel this Agreement and any outstanding order. Such cancellation right is in addition to any other legal or equitable remedies that may be available to Reiloy, including recovery of damages and the return of all funds of Reiloy advanced to Vendor in payment of the purchase price for such undelivered Goods or unperformed Services'

#### **7. Documents/confidentiality**

7.1 Documents (e.g. drawings and calculations), fixtures, models, tools, other manufacturing equipment or templates made available by us to Vendor shall at all times remain our sole and exclusive property. Such items may only be used for preparing a proposed offer or for providing the Services or producing the Goods.

7.2 We are entitled to demand immediate transfer free of charge and without delay of all templates (e.g. models, tools) and documents used by Vendor for executing the order. After payment, title to these templates and documents shall pass to us. If Vendor is in delay we may use them without a special permission, to procure successful contract execution, to carry out maintenance and repair work as well as subsequent modifications and to manufacture spare parts ourselves or to have such spare parts manufactured by third parties and to hand them over for such purposes. Vendor shall also provide us with other information required to procure successful execution of the contract.

#### **8. Inspection/Acceptance/Defects**

8.1 Reiloy shall inspect the Goods upon delivery without undue delay. Written notice of any defects shall be submitted by Reiloy to Vendor within two (2) weeks following receipt of the Goods, and Reiloy's failure to provide timely notice of any defects or nonconformities within such time period shall constitute Reiloy's acceptance of the Goods. Provided, the required notice is hereby waived to the extent that any defects or nonconformities could not reasonably be identified upon ordinary inspection, but are subsequently discovered by us.

8.2 Reiloy shall upon request make available to Vendor any rejected Goods or a sample thereof for the purpose of evaluating the

reasoning for the rejection.

8.3 In the event of a claim of nonconformity, Reiloy may initially require Vendor to remedy by repair. However, Vendor shall be entitled, at its discretion, to deliver substitute Goods and to reclaim the non-conforming Goods. If the substituted Goods also do not conform or if Vendor fails to remedy by timely repair, Reiloy shall have the right to require Vendor to substitute Goods, require repair, or cancel the order and resort to any other legal or equitable remedies that may be available to Reiloy under these Terms and Conditions or under applicable Laws. If we choose to have the Goods repaired, then we may establish a reasonable deadline for performance, considering a number of factors including but not limited to, applicable Laws, safety concerns, unreasonable or burdensome disruptions in our production processes or commitments to our customers.

8.4 In the event of defects in the quality of Goods, in addition to the other rights and remedies available to us, we may also remedy those defects ourselves and demand payment in advance, incurred for remedying such defects and nonconformities. Provided, our exercise of such remedy shall not invalidate any of the warranties provided by Vendor under Section 11. Such remedial rights are in addition to any other legal or equitable remedies that may be available to Reiloy.

8.5 To the extent we are entitled to cancel a contract or purchase order as a matter of applicable Laws or the terms of these Terms and Conditions in the event that Services are not being timely provided or not being properly provided, we may in our discretion limit our right to cancel to a single portion or portions while maintaining the remaining portion of such contract or purchase order, provided that the cancelled portion of the purchased Services is able to be restricted to a reasonably delimitable portion of such contract or purchase order.

8.6 If we are obliged to inspect the Services and give notice of defects, such notice shall be given within two weeks from the date of performance. Our obligation to inspect the Services upon performance shall be restricted to obvious defects based on the delivery documents. The notice of a hidden defect shall be considered in due time if given within two weeks from its discovery.

8.7 The place of performance for the supplementary performance shall be the place of installation of the defective Services.

8.8 If a defect in quality or conformity is discovered within six months from the transfer of title of Goods or the last time when the Services on a particular project is completed, it shall be presumed that the Goods or Services were defective at the time of the transfer of title or the performance of the Services.

8.9 The mere receipt, use, processing, payment or repeat order of any Services shall not constitute any approval or acceptance of these Services or a waiver of claims for defects.

#### **9. Vendor's Indemnity Obligations**

9.1 Vendor agrees to indemnify and hold Reiloy harmless from and against any and all liabilities, costs, losses or expenses, including reasonable attorney fees, incurred or suffered by us as a result of or in connection with Vendor's breach of any of its obligations under these Terms and Conditions including the actions of its vendors, agents and subcontractors.

9.2 Vendor agrees to indemnify and hold Reiloy harmless from and in respect of any damages, losses or expenses which Reiloy may suffer or incur, including reasonable attorney fees, arising out of, relating to, or concerning any claim, action or allegations that any of the Goods (or the use of same in an intended manner) or the materials utilized by Vendor in performing any Service infringes upon any patent or intellectual property rights owned or claimed by any third party; provided that we will notify Vendor in writing of any such claim, act or allegation promptly after learning of the same. Any defense or settlement efforts shall be at Vendor's sole expense.

9.3 During the course of Vendor's relationship with Reiloy and for a period of not less than five (5) years thereafter, Vendor shall secure and maintain in effect, at its expense, by companies rated A-VII or better by A.M. best commercial general liability coverage (including product liability and completed operations liability) in a sum of not less than \$1 Million per occurrence, shall upon our request list Reiloy as an additional insured, and as to all Goods shall be primary over any other insurance available to us. Upon our request, Vendor shall also provide us with certificates of insurance evidencing that Vendor maintains such coverage.

## **10. Intellectual Property Rights**

10.1 Vendor warrants that no Goods (or the use of same in an intended manner) or the materials utilized by Vendor in performing any Service infringes upon any patent or intellectual property rights owned or claimed by any third party.

10.2 All information, drawings, materials, goods, apparatus or documents disclosed or delivered to Vendor by Reiloy or arising from any Goods related work or Services provided by Vendor, and all knowledge of any business relationship between us and Vendor, shall be treated as confidential and proprietary information of Reiloy and may not be disclosed or utilized by Vendor except in the manufacture of Goods or while providing Services to us. Specifically, Vendor shall not use any of our information for the manufacture or production of products or components for Vendor or for any third party. The obligations established under this Section 10.2 shall not apply to any information, material, goods, apparatus or equipment that is already known by Vendor lawfully learned from a source other than Reiloy (i.e., in the public domain) or without a breach of another confidentiality duty owed by them to Reiloy or subsequently becomes lawfully available and accessible to the public.

10.3 Absent express language to the contrary in the applicable contract or purchase order, all materials generated by Vendor in the course of providing Services shall be considered "work for hire" and the exclusive property of Reiloy.

## **11. Warranty Provisions**

Vendor hereby warrants to Reiloy that (i) all Services shall be provided in a competent, professional manner by competent personnel and in accordance with customary standards and practices of our industry; (ii) all Goods shall be free from defects in materials and workmanship, and shall be merchantable and fit for their particular purpose; (iii) all Goods shall conform to and perform in accordance with all specifications, drawings, samples and other requirements provided by us or referred to in their respective purchase order; (iv) all Goods shall be manufactured, produced, labelled, furnished and delivered to us in compliance with all Laws; (v) when shipped, all Goods shall be free from all liens, security interests and encumbrances of any type whatsoever; and (vi) no Goods or Services will infringe upon any patent or intellectual property rights owned or claimed by any third party. Further, the express warranties set forth herein shall be in addition to any and all other warranties permitted or provided by applicable law, including without limitation, any implied or statutory warranties (e.g. the implied warranty of merchantability, fitness for a particular purpose, and non-infringement).

## **12. Passage of Title**

Upon delivery of the Goods and their acceptance by Reiloy, we acquire title and full ownership. Vendor acknowledges and agrees that upon such acceptance, Vendor does not retain any title or interest in the Goods nor does any previous supplier of Vendor regardless of any understanding between them to the contrary.

## **13. Right of Set-off**

If we choose to accept nonconforming or defective Goods, in addition to any other remedies that we may have, Reiloy may elect, in accordance with UCC §2-717, to deduct any or all part of its damages resulting from any breach of this Agreement from any part of this purchase price otherwise owed for such nonconforming or defective Goods.

## **14. Reiloy Provided Goods (Retention of Title)**

We shall retain absolute and sole title to all material delivered by us to any Vendor in any case, irrespective of the extent to which any processing has been conducted or if such materials have been incorporated into the Goods being manufactured by Vendor and it is understood that such delivery by Reiloy of such materials does not constitute a sale under the UCC. In the event that we cancel any purchase order due to Vendor's breach of this Agreement, including specifically undue delay under Section 6.2, and in the event our supplied materials have been processed or incorporated into any Goods being manufactured by Vendor, then upon our reimbursement of Vendor of their direct material costs, we shall acquire title to all the partially finished or finished Goods.

## **15. Legal Compliance**

15.1 Vendor shall at all times comply with, and further warrants that as to the conduct of Vendor's business, including the production of all Goods and the performance of all Services, it will comply with all applicable state, federal or foreign laws and regulations, including but

not limited to all laws relating to taxation, environmental compliance, intellectual property rights and labour laws ("Laws"). Vendor also undertakes, upon request, to provide us with reasonable written proof of lawful and timely compliance, of not only itself but also of its vendors, suppliers and subcontractors.

15.2 Whenever requested by Reiloy, Vendor shall execute and provide any and all information, documents, and certifications reasonably required by us, and use due diligence protocols, standards and procedures in its supply chain as are necessary to comply with its legal obligations under these Terms and Conditions.

15.3 Vendor does hereby indemnify and hold harmless Reiloy, its affiliated companies and customers from and against any and all losses, costs, claims (direct or indirect), liabilities or damages asserted by third parties, including any claim, penalty or fine asserted by any governmental unit, arising from or related to Vendor's failure or alleged failure to comply with any such Laws or regulations.

## **16. Controlling Laws**

16.1 As to all Services and all Goods purchased from a source located within the United States of America, Canada or the Republic of Mexico (such countries referred to as "North America"), the domestic substantive and internal Laws (including the Uniform Commercial Code ("UCC")) of the State of Illinois, but without reference to Illinois' conflicts of laws rules or principles, shall govern this Agreement as to any claim or dispute.

16.2 As to Goods purchased from a source located outside of North America, as to legal issues related to their manufacture, purchase or delivery, the United Nation's Convention on Contracts for the International Sale of Goods shall govern and apply to the purchase of such internationally sourced Goods. Provided, as to all other matters arising under these Terms and Conditions, the domestic substantive and internal Laws (other than the UCC) of the State of Illinois, but without reference to Illinois' conflicts of laws rules or principles, shall govern this Agreement as to any claim or dispute.

## **17. Dispute Resolution**

In the event of any dispute or controversy arising out of or related to this Agreement, including the interpretation of any provision of this Agreement, or the relationship between the parties, which cannot be informally resolved by the parties, such dispute or controversy shall be resolved by binding arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules then in effect, except as such rules may be modified by this Agreement or by the mutual consent of the parties. The number of arbitrators shall be one. Any arbitration proceeding conducted hereunder will be held in Wichita, Kansas USA or such other locale as we and Vendor may mutually agree. The arbitrator's ruling shall be enforceable in any court of competent jurisdiction. Specifically, with respect to enforcing the arbitrator's ruling, Vendor (i) irrevocably submits and agrees to the jurisdiction of the state and federal courts of the state of Kansas, and (ii) to the extent permitted by applicable law, Vendor waives and agrees not to assert as a defense in any such action, suit or proceeding, any claim (a) that Vendor is not personally subject to the jurisdiction of the state and federal courts of Kansas; (b) that the venue of the action, suit or proceeding is improper; (c) that the action, suit or proceeding is brought in an inconvenient forum; or (d) the subject matter of these Terms and Conditions and related documentation may be enforced in any court other than the state or federal courts of the state of Kansas. All arbitration proceedings shall be conducted in the English language.

## **18. Severability**

Should individual provisions of these terms and conditions be or become invalid in whole or in part, this shall not affect the validity of the other provisions or the residual part of the clause. For this case, the parties already now undertake to enter into negotiations that aim to replace the invalid provision with such a clause that approximates most closely in an economic sense to what the parties intended by the existing provision.