

TERMS AND CONDITIONS OF PURCHASE

1. **DEFINITIONS:** As used herein, "Buyer" means Rotunda Scientific Technologies LLC. "Seller" means the party identified on the face of this order. "Supplies" means all articles, materials, products, work or services to be furnished pursuant to this order.

2. **ACCEPTANCE:** **This order is an offer to purchase** and when accepted by Seller becomes the exclusive agreement between the parties relating to Supplies. Any of the following shall constitute Seller's unqualified acceptance of this order: (i) written acknowledgement of this order; (ii) furnishing of any Supplies pursuant to this order; (iii) acceptance of any payment for Supplies or (iv) commencement of performance pursuant to this order. Notwithstanding the foregoing, this order shall not operate as a rejection of any offer by Seller (but merely of the terms and conditions contained within such offer) unless such offer contains variances in the description, quantity, price or delivery schedule of the Supplies.

3. **INSPECTION:** All Supplies shall be received subject to Buyer's right of inspection and rejection. Defective Supplies or Supplies not in strict conformance with this order or Buyer's or Seller's description or specifications, will be held for receipt of instructions, at Seller's risk, and if Seller so directs, will be returned, at Seller's expense. If Buyer does not receive such written instructions within forty-five (45) days of Buyer's request therefor, Buyer may, without liability to Seller, dispose of the goods, as it deems appropriate, it its sole discretion. Buyer may, by written notice to Seller, and in addition to other remedies provided by law, require replacement or correction of rejected Supplies. Payment for goods on this order prior to inspection shall not constitute acceptance thereof or a waiver of a breach of warranty and is without prejudice to any claim(s) of Buyer. Seller shall inspect all Supplies prior to shipment to ensure conformance with all requirements of this order.

4. **PACKING AND SHIPPING:** All items shall be packaged, marked and otherwise prepared in accordance with good commercial practices and Buyer's instructions therefor, if any. Each package must be numbered and labeled with Buyer's purchase order number, stock number (if applicable), contents, and weight. An itemized packing list shall be included in each shipment and the package containing the packing list must be clearly marked as such. Each packing list shall bear the Buyer's purchase order number and an accurate description of the Supplies and quantities in the shipment. Supplies shipped in excess of Buyer's order may be returned at Seller's expense. Buyer will not be responsible for any Supplies furnished without a written order.

5. **DELIVERY:** Delivery of goods shall be EXW (F.O.B.) Buyer's location and shall not be complete until goods have actually been received and accepted by Buyer. Notwithstanding any agreement to pay freight, the risk of loss or damage in transit shall be upon the Seller.

6. **TAXES:** Buyer shall pay sales or use tax, if any is due, of the state in which the order originates. Seller shall pay any other federal, state, local or foreign taxes or other governmental charges upon the production, transportation or sale of the goods supplied hereunder. Unless otherwise stated, the prices do not include sales or use taxes applicable to the goods. All such taxes and charges shall be shown separately on Seller's invoice.

7. **WARRANTY:** Seller warrants that all Supplies (i) shall be of good quality and workmanship and free from defects, latent or patent, in material or workmanship, (ii) shall conform in all respects to all specifications, performance standards, drawings, samples or descriptions of Seller and Buyer and (iii) shall be free of any claim of any third party. These warranties are in addition to all other express warranties and legal rights and shall run to the benefit of the Buyer. No remedy available to Buyer for the breach of any warranties hereunder shall be limited except to the extent and in the manner expressly agreed upon by Buyer in an executed document which specifies such limitation. Buyer's approval of any sample or acceptance of any Supplies shall not relieve Seller from responsibility to deliver goods and to perform services conforming, in all respects, to the sample. These warranties shall not be deemed waived either by reason of Buyer's acceptance of Supplies or by payment for them and shall survive delivery. In the event of a breach of warranty, Buyer may return such Supplies, at Seller's expense, for correction, replacement or credit/refund as Buyer may direct. This warranty shall apply to replacement Supplies. Seller shall effectuate all such corrections or replacements within 10 days of receipt of returned Supplies.

8. **CONFIDENTIAL INFORMATION:** Seller agrees to keep secret and confidential all confidential, proprietary or non-public information of Buyer and the existence, terms and conditions of this order (the "confidential information"). In addition, the Seller agrees to (i) disclose the confidential information only to its employees who need to know for purposes of fulfilling this order and (ii) use the confidential information only for the purpose of fulfilling this order. It is understood that no license, either expressed or implied, is hereby granted by the Buyer under any confidential information.

9. **NOTIFICATION REQUIREMENT: TIME IS OF THE ESSENCE.** If, for any reason, at any time, Seller shall refuse or be unable, or should reasonably anticipate being unable to deliver any part or all of the Supplies in accordance with the terms hereof, Seller shall notify Buyer of such refusal or inability at the earliest possible time and by the most practical means under the circumstances. Such notification shall not be deemed to operate as a release of Seller from its obligations under this order Buyer shall have the right to replace, modify and/or cancel any delayed open orders without any liability to Seller. In the event of such a replacement or modification, Seller shall pay to Buyer (or at Buyer's option, it may offset such amount from any amount owed to Seller) promptly upon demand therefor, an amount equal to the cost of such replacement or modification, less the amount which would have been payable to Seller for an equal quantity and quality of Supplies, plus any amount incurred by Buyer to effectuate such replacement or modification. Such amount is agreed to be damages for Seller's non-performance and shall not, in any event, be construed to be a penalty.

10. **INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE:** Seller shall defend, indemnify, and hold harmless Buyer, its officers, employees, agents, representatives, customers or affiliates ("Buyer's Affiliates") from any claim, suit, loss, cost, damage, expense to any person of whatsoever nature of kind arising out of, as a result of, or in connection with (i) Seller's performance of this order, (ii) omissions of Seller or its officers, employees, agents, representatives, affiliates or subcontractors or (iii) the Supplies. Without in any way limiting the foregoing, Seller and any person or entity performing work for or on behalf of Seller under this order shall maintain public liability and property damage insurance covering Seller's obligations hereunder and the Supplies and shall maintain, in accordance with applicable law, workers' compensation insurance covering all employees performing work with respect to

this order. This provision shall survive expiration or termination of this order. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, (i) THE LIABILITY OF BUYER, ITS AFFILIATES, SUPPLIERS, DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS UNDER THIS AGREEMENT (WHETHER BY REASON OF BREACH OF WARRANTY, BREACH OF CONTRACT, TORT, INDEMNIFICATION, OR OTHERWISE) SHALL NOT EXCEED AN AMOUNT EQUAL TO THE TOTAL PURCHASE PRICE PAID BY BUYER TO SELLER UNDER THIS ORDER; AND (ii) IN NO EVENT SHALL BUYER, ITS AFFILIATES, SUPPLIERS, DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES (INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF REVENUE, LOSS OF BUSINESS, LOSS OF DATA OR INFORMATION, LOSS OF PROFITS OR LOSS OF GOODWILL), REGARDLESS WHETHER BUYER (a) HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES OR (b) IS NEGLIGENT.

11. **INTELLECTUAL PROPERTY:** Seller hereby grants a perpetual corporate license relating to any Software or other embodiment of intellectual property embedded in the Supplies, as necessary for Buyer's purchase, use, maintenance and/or sale of Supplies. Seller shall hold Buyer and Buyer's Affiliates harmless from any claim, suit, loss, cost, damage or expense (including, without limitation, the costs and expense incurred in the defense suits or actions alleging such liability) of whatsoever nature or kind arising out of, as a result of or in connection with a claim for infringement of rights in, to or under patents, trade marks, copyrights or other intellectual property rights by the manufacture, design, use, maintenance, support or sale of any Supplies. This provision shall survive termination or expiration of this order.

12. **TERMINATION:** Buyer shall have the right, without liability to Seller, to cancel any unshipped portion of an order (i) a portion of which is not in strict conformance with this order or Buyer's or Seller's description or specifications, (ii) in the event Seller has breached this order, any warranty or its obligations to Buyer, (iii) in the event that Buyer's business is interrupted because of strikes, labor disturbances, riot, fire or Acts of God or any other cause beyond the control of Buyer or (iv) if the Seller makes an assignment for the benefit of creditors, a receiver or trustee is appointed with respect to the Seller's business, the Seller is adjudicated insolvent or if the Seller files or there is filed against Seller a petition for bankruptcy or other relief under the Bankruptcy Code or any successor statute. Buyer shall have the right to cancel any unshipped portion of an order, in whole or in part, at any time, for a reason other than that set forth above, in which event Buyer shall be liable to Seller for the actual amount of Seller's costs reasonably incurred in contemplation of performance of the canceled portion; less any amount saved by Seller as a result of such cancellation and less any amounts which could have reasonably been mitigated by Seller. **Seller is cautioned not to ship, fabricate or build inventories of raw or finished stock at a rate faster than is required to meet delivery requirements of this order.**

13. **COMPLIANCE WITH LAW:** Seller warrants and represents that the merchandise, including all packaging thereof, shipped pursuant to this order shall have been produced in compliance with and meet the minimum standards of all applicable federal, state and local laws, regulations, rules, guides, ordinances and/or standards in effect as of the date on which such merchandise is accepted by Buyer and that the sale by Seller or purchase by Buyer of such merchandise does not violate any such laws, regulations, rules, guides, ordinances and/or standards. Upon request by Buyer, Seller shall furnish Buyer with a certificate of compliance with any such laws, regulations, rules, guides, ordinances and/or standards. Seller shall appropriately label containers of all goods which are known to constitute a health, poison, fire, environmental, safety or explosion hazard and shall provide Buyer any and all material required for Buyer to comply with all laws, regulations, rules, guides, ordinances and/or standards, including, without limitation, Material Safety Data Sheets.

14. **EQUAL OPPORTUNITY:** The Equal Opportunity clause in Section 202 of Executive Order (E.O.) 11246, as amended, Section 503 of the Rehabilitation Act of 1973 (Handicap) and the Vietnam Era Veterans Readjustment Assistance Act of 1974 (38 U.S.C. 2012), and the implementing rules and regulations in Title 41, GFR, Part 60 are incorporated herein by reference unless this order is exempted by rules, regulations, or orders of the U.S. Secretary of Labor issued pursuant to Section 204 of E.O. 11246 or provisions of any superseding E.O. As used in said clause, "Contractor" means Seller. Seller agrees to provide Buyer with an executed Equal Employment Opportunity Certificate indicating Seller's compliance or exempt status, annually upon request of Buyer. In the event Seller has a current Certificate on file with Buyer, it is incorporated herein by reference, and shall be valid until the next report delivered by Buyer.

15. **ASSIGNMENT:** Seller agrees that Seller will neither assign its rights nor delegate under this order without the prior written consent of Buyer. Any attempted assignment which violates this paragraph shall be VOID AB INITIO.

16. **INTERPRETATION OF ORDER:** Irrespective of the place of performance of this order, this order shall be interpreted in accordance with the laws of the State of Ohio without reference to its choice of law provisions. Each party hereby irrevocably consents to the exclusive jurisdiction of the state and federal courts located in Summit County, Ohio, in any action arising out of or relating to this Agreement and waives any other venue to which it may be entitled by domicile or otherwise. In the event of any legal proceeding between the Company and Contractor relating to this Agreement, neither party may claim the right to a trial by jury, and both parties waive any right they may have under applicable law or otherwise to a right to a trial by jury.

17. **AMENDMENT, MODIFICATION, WAIVER AND REMEDIES:** Performance of this order must be strictly in accordance with its stated terms and conditions and no change, modification, revision, alteration or waiver shall be binding unless executed by Buyer. No waiver of and/or failure to perform any or all of the terms or conditions hereof shall constitute a waiver of or an excuse for non-performance as to any other part of this or any other order. No remedy herein provided shall be deemed exclusive of any other remedy allowed by law or in equity. Under no circumstances shall the Buyer be obligated for consequential damages, loss of revenue or profit, or any amount in excess of the total amount stated on the face of this order. Seller shall bear all expenses, including reasonable attorneys' fees; Buyer incurs to enforce its rights under this order.