



GENERAL TERMS AND CONDITIONS OF SALE

Last Amended: November 2018

1. APPLICABILITY

- 1.1 **General terms.** These general terms and conditions of sale (these “Terms”) are the only terms that govern the sale of all Ryeco Systems, Trial Systems, Sheet Break Detection Systems and Edge Systems and related components (the “Goods”) by Ryeco, LLC (“Seller”) to the Buyer. These terms also govern any services provided by Seller (“Services”) in relation to the procurement, installation, repair, or maintenance of the Goods.
- 1.2 **Choice of law; Jurisdiction.** This contract and all claims relating to or arising out of this contract shall be governed in accordance with the laws of the U.S. state of Georgia, excluding that state’s choice-of-law principles. Buyer and Seller hereby agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to this contract. **All disputes arising out of or in connection with this Agreement will be brought in the courts of Cobb County, Georgia or the U.S. District Court for the Northern District of Georgia, and the Parties consent to the jurisdiction of such courts.**
- 1.3 **Priority.** These Terms and the Seller’s quotation, order acknowledgement, and invoice (collectively, this “Agreement”) 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. These Terms prevail over any of Buyer’s general terms and conditions of purchase regardless of whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer’s order does not constitute acceptance of any of Buyer’s terms and conditions and does not serve to modify or amend these Terms.
- 1.4 **Change of Services.** Notwithstanding anything to the contrary contained in this Agreement, Seller may, from time to time change the Services without the consent of Buyer, provided that such changes do not materially affect the nature or scope of the Services, or the fees or any performance dates set forth in the quotation.

2. DELIVERY OF GOODS AND PERFORMANCE OF SERVICES

- 2.1 **Time of Delivery.** The Goods will be delivered within a reasonable time after the receipt of Buyer’s purchase order. Multiple system orders may be longer. Seller will not be liable for any delays, loss or damage in transit.
- 2.2 **Shipping Terms.** Unless otherwise specified in the Seller’s quotation, Goods will be delivered FOB (Seller’s location). Seller will make delivery in accordance with the terms on the face of the Seller’s quotation and/or order acknowledgment. All shipping dates are approximate and are contingent upon prompt receipt of all necessary information.
- 2.3 **Title and Risk of Loss.** Title and risk of loss passes to Buyer upon delivery of the Goods at the location of the Seller or other delivery point agreed to in writing by the parties (“Delivery Point”).
- 2.4 **Buyer’s Acts or Omissions.** If Seller’s performance of its obligations under this Agreement is prevented or delayed by any act or omission of Buyer or its agents, subcontractors, consultants or employees, Seller will not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Buyer, in each case, to the extent arising directly or indirectly from such prevention or delay.
- 2.5 **Currency.** All payments will be made in United States Dollars (USD) at the bank designated by the Seller to such purpose.
- 2.6 **Purchase Money Security Interest.** As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions, thereto and replacements or modifications

thereof, as well as all proceeds (including insurance proceeds) of the foregoing. If the payments due by the Buyer are not made within the terms established herein, the Buyer shall pay the default interest at the highest rate legally allowed.

- 2.7 **Partial Shipments.** Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer will pay for the units shipped, whether such shipment is in whole or partial fulfillment of Buyer's purchase order.
- 2.8 **Failure to Accept Delivery.** If for any reason Buyer fails to accept delivery of any of the Goods on the date that the Goods have been delivered at the Delivery Point, or if Seller is unable to deliver the Goods at the Delivery Point on such date because Buyer has not provided appropriate instructions, documents, licenses or authorizations: (a) risk of loss to the Goods will pass to Buyer; (b) the Goods will be deemed to have been delivered; and (c) Seller, at its option, may store the Goods until Buyer picks them up, whereupon Buyer will be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 2.9 **Accommodation of Services.** With respect to the Services, Buyer will (a) cooperate with Seller in all matters relating to the Services and provide such access to Buyer's premises, and such office accommodation and other facilities as may reasonably be requested by Seller, for the purposes of performing the Services; (b) respond promptly to any Seller request to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for Seller to perform Services in accordance with the requirements of this Agreement; (c) provide such customer materials or information as Seller may reasonably request 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.
- 2.10 **Recommendations.** As part of this Agreement (and subject to the warranty provisions in Section 9) Seller may provide recommendations and advice to Buyer concerning the type of Goods needed, the preferred location of the Goods within the Buyer's premises, and other matters related to the Goods and Services. In giving such recommendations and advice, Seller relies on Buyer's accurate representations concerning the Buyer's facilities and operations. Buyer further acknowledges that, even in the absence of any defects, the performance of the Goods may vary based on external factors outside of Seller's knowledge or control, including, without limitation, Buyer's use of premises. Seller will not be responsible for any loss or any defect in the performance of the Goods that resulted from Buyer's inaccurate information or from external factors outside of Seller's control.

3. NON-DELIVERY

- 3.1 **Notice requirement.** Seller will not be liable for any non-delivery of Goods (even if caused by Seller's negligence) unless Buyer gives written notice to Seller of the non-delivery within 30 days of the date when the Goods would in the ordinary course of events have been received.
- 3.2 **Limitations.** No claim for variances from or shortages in orders will be considered by the Seller unless presented to it in writing within thirty (30) days after receipt of goods. All claims for breakage or other damage due to shipment or handling must be made to the common carrier by the Buyer. Any liability of Seller for non-delivery of the Goods will be limited to replacing the Goods within a reasonable time or adjusting the invoice respecting such Goods to reflect the actual quantity delivered.

4. INSPECTION AND REJECTION OF NONCONFORMING GOODS

- 4.1 **Inspection Period.** Buyer will inspect the Goods within 5 days of receipt ("Inspection Period"). Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Seller. "Nonconforming Goods" means that the product shipped is different than identified in Buyer's purchase order.
- 4.2 **Nonconforming Goods.** If Buyer timely notifies Seller of any Nonconforming Goods, Seller will, in its sole discretion, (a) replace such Nonconforming Goods with conforming Goods, or (b) credit or refund the

Price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. If Seller exercises its option to replace Nonconforming Goods, Seller will, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer, at Buyer's expense and risk of loss, the replaced Goods to the Delivery Point.

- 4.3 **Remedies.** Buyer acknowledges and agrees that the remedies set forth in Section 4.2 are Buyer's exclusive remedies for the delivery of Nonconforming Goods. Except as provided under Section 4.2, all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to Seller.

5. PRICE

- 5.1 **Price.** Buyer will purchase the Goods from Seller at the price set forth in the Seller's quotation, order acknowledgment, and/or invoice (the "Price").
- 5.2 **Taxes.** All Prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any governmental authority on any amounts payable by Buyer. Buyer will be responsible for all such charges, costs, and taxes. Buyer will not be responsible for any taxes imposed on Seller's income, revenues, gross receipts, personnel, real or personal property, or other assets.

6. PAYMENT TERMS

- 6.1 **Net 30.** Payment terms are Net 30, meaning that Buyer will pay all invoiced amounts due to Seller within 30 days from the date the Goods are dispatched. Buyer will make all payments hereunder in USD.
- 6.2 **Interest.** Buyer will 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. Buyer will reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller will be entitled to suspend the delivery of any Goods or performance of any Services if Buyer fails to pay any amounts when due hereunder.
- 6.3 **No Withholding.** Buyer will not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise. Retainage of any kind is unacceptable.
- 6.4 **Credit purchase.** All purchases of Goods on credit may be subject to Seller's approval of Buyer's credit application. The Buyer's initial credit application will apply to this Agreement and any future agreements with the Seller. If more than one credit application has been submitted and approved, the most recent credit application governs.

7. CHANGE ORDERS

In the event that Buyer causes or requests (i) changes to be made which affect delivery, installation, specifications, completion dates or otherwise or (ii) Services or shipment of Goods to be delayed, whether directly or by other contracts or because the facilities, including utilities, electrical hookup, site preparation, governmental permits, approvals or licenses, apparatus, or other conditions to be provided or arranged by Buyer are lacking or insufficient, Buyer will reimburse Seller for any expense incurred by Seller in respect of or resulting from each such change or delay upon presentation by Seller of a simple invoice. Any additional services or equipment not specifically set forth herein shall be at Buyer's additional expense.

8. STORAGE

If shipment of any Goods is postponed by direction of the Buyer, the Seller may at any time after original scheduled date of shipment, pack, hold and invoice such Goods as if then shipped, same being then held at Buyer's risk and subject to Seller's storage charges, and upon full payment shall become the property of the Buyer.

9. LIMITED WARRANTY

- 9.1 **Direct Sales Guarantee.** Ryeco Edge Systems, sold direct by Ryeco or an authorized Ryeco Agent, has a performance guarantee as follows: RYECO EDGE SYSTEMS WILL PERFORM AS STATED IN THIS PROPOSAL, and as described in our PRODUCT BROCHURES and ADVERTISEMENTS TO THE CUSTOMER'S SATISFACTION, OR RYECO WILL ACCEPT RETURN OF THE EQUIPMENT DURING THE ONE YEAR WARRANTY PERIOD AND REFUND THE PURCHASE.
- 9.2 **OEM Guarantee.** All Ryeco Edge Systems sold by an authorized RYECO OEM have a performance guarantee contingent upon Ryeco being provided correct specs at time the purchase order is placed and installation is conducted according to the Ryeco System Manual. The performance guarantee states: RYECO EDGE SYSTEMS WILL PERFORM AS STATED IN THIS PROPOSAL, PRODUCT BROCHURES, ADVERTISEMENTS TO THE CUSTOMER'S SATISFACTION, OR RYECO WILL ACCEPT RETURN OF THE EQUIPMENT DURING THE ONE YEAR WARRANTY PERIOD AND REFUND THE PURCHASE.
- 9.3 **Warranty Period.** For the warranties provided in Sections 9.1 and 9.2, the Goods are warranted for a period of one year from ship date or offer to ship. The warranties cover defects in material and workmanship. The warranties do not include travel expenses for on-site assistance. Software upgrades are provided free of charge during the warranty period.
- 9.4 **Limitations.** EXCEPT FOR THE WARRANTIES SET FORTH IN SECTIONS 9.1 AND 9.2, SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS OR SERVICES, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY, (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, (c) WARRANTY OF TITLE, OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.
- 9.5 **Third-Party Product.** Products manufactured by a third party ("Third Party Product") may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Goods. Third Party Products are not covered by the warranties in Sections 9.1 and 9.2. For the avoidance of doubt, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PRODUCT, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY, (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.
- 9.6 **Breach of Warranties Notice Requirement.** The Seller will not be liable for a breach of the warranties set forth in Sections 9.1 and 9.2 unless: (a) Buyer gives written notice of the defective Goods or Services, as the case may be, reasonably described, to Seller within 10 days of the time when Buyer discovers or ought to have discovered the defect; (b) if applicable, Seller is given a reasonable opportunity after receiving the notice of breach of the warranties set forth in Sections 9.1 or 9.2 to examine such Goods and Buyer (if requested to do so by Seller) returns such Goods to Seller's place of business at Seller's cost for the examination to take place there; and (c) Seller reasonably verifies Buyer's claim that the Goods or Services are defective.
- 9.7 **Exclusions.** The Seller will not be liable for a breach of the warranties set forth in Section 9.1 and 9.2 if: (a) Buyer makes any further use of such Goods after giving such notice; (b) the defect arises because Buyer failed to follow Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods; (c) Buyer alters or repairs such Goods without the prior written consent of Seller; (d) the defects or other problems in the Goods and/or Services arose due to inaccurate information provided by Buyer to Seller; or (e) the defects or other problems in the Goods and/or Services arose due to external factors outside of Seller's knowledge or control, including, without limitation, Buyer's use of facilities where the Goods are located.

- 9.8 **Ryeco Marking Systems.** Ryeco Marking Systems utilize atomization technology, which will produce air born dye that can land on areas not targeted to be marked on. By purchasing this system, Buyer and end-user releases Ryeco of any responsibility or liability of damages concerning overspray and air born dye.
- 9.9 **Repairs and Refunds.** Subject to Sections 9.3 through 9.8, with respect to any such Goods during the Warranty Period, Seller will, in its sole discretion, either: (a) repair or replace such Goods (or the defective part) or (b) credit or refund the price of such Goods at the pro rata contract rate provided that, if Seller so requests, Buyer will, at Seller's expense, return such Goods to Seller. Subject to Sections 9.4 through 9.8, with respect to any Services subject to a claim under the warranty set forth in 9.1 or 9.2, Seller will, in its sole discretion, (a) repair or re-perform the applicable Services or (b) credit or refund the price of such Services at the pro rata contract rate.
- 9.10 **Remedies.** The remedies set forth in Sections 9.9 are the Buyer's sole and exclusive remedy and Seller's entire liability for any breach of the limited warranties set forth in Sections 9.1 and 9.2.

10. LIMITATION OF LIABILITY

- 10.1 IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
- 10.2 IN NO EVENT WILL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE GOODS AND SERVICES SOLD HEREUNDER, AS REFLECTED IN THE SELLER'S QUOTATION AND INVOICE, WHICHEVER IS LESS.

11. INDEMNIFICATION

To the fullest extent permitted by law, Buyer shall indemnify, defend and hold harmless Seller and its officers, directors, shareholders, employees, agents, affiliates, successors and permitted assigns (collectively, "Indemnified Party") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind (including reasonable attorneys' fees, the costs of enforcing any right to indemnification under this Agreement, and the cost of pursuing any insurance providers) resulting from any claim of a third party or Seller arising out of or occurring in connection with (a) the Goods or Services purchased from Seller, or (b) Buyer's negligence, willful misconduct or breach of this Agreement. Buyer shall not enter into any settlement without Seller's or Indemnified Party's prior written consent. This indemnification provision shall not apply to claims resulting directly from Seller's gross negligence or Seller's breach of this Agreement.

12. COMPLIANCE WITH LAW

Buyer will comply with all applicable laws, regulations and ordinances. Buyer will maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement.

13. TERMINATION

In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (a) fails to pay any amount when due under this Agreement; (b) has not otherwise performed or complied with any 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.

14. CANCELLATION CHARGES

Once accepted by the Seller, an order is not subject to cancellation or change except on terms acceptable and satisfactory to the Seller. Direction by Buyer to cancel may be treated as a repudiation, making the Buyer immediately liable for any liability, loss, expense and other damages sustained by the Seller. It is understood that a cancellation charge will be due from Buyer to Seller computed on the basis of costs (direct and indirect) accumulated, including without limitation, labor materials and engineering related to this Agreement and the Goods described in the quotation, plus 10% of the total contract price. Buyer agrees that the cancellation charge is not a penalty, but is meant to reimburse the Seller for administrative and other costs. Buyer acknowledges that the Goods may be built to order and custom made, and it may not be possible to reuse or resell them. The cancellation charge shall be due and payable at the time of receipt of Buyer's written notice of cancellation at Seller's office.

15. CONFIDENTIAL INFORMATION

All non-public, confidential or proprietary information of Seller, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the use of performing this Agreement, and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer will promptly return all documents and other materials received from Seller. Seller will be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

16. FORCE MAJEURE

The Seller will not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown, or power outage.

17. DEFAULT

In the event that at any time Buyer is in default under any terms of any order arising out of this Agreement or any other order, Seller reserves the right to withhold construction or delivery and to cancel and terminate any or all orders and to hold Buyer liable for any damages and expenses incurred by Seller. The Seller also reserves the right to declare all charges and accounts to be immediately due and payable.

18. MISCELLANEOUS

- 18.1 **Assignment.** Buyer will not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Seller. Any purported assignment or delegation in violation of this section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.
- 18.2 **Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in this Agreement may 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 has authority to contract for or bind the other party in any manner whatsoever.
- 18.3 **No Third-Party Beneficiaries.** This Agreement is 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 will confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under these Terms.

- 18.4 **Notices.** All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a “Notice”) must be in writing and addressed to the parties at the addresses set forth on the face of the quotation, purchase order, order acknowledgment, or to such other address that may be designated by the receiving party in writing. All Notices must be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), verified email (with confirmation of transmission), facsimile (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, 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.
- 18.5 **Severability.** If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
- 18.6 **Survival.** Provisions of this Agreement which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Limited Warranty, Limitation of Liability, Indemnification, Relationship of the Parties, No Third-Party Beneficiaries, Notices, Compliance with Laws, Confidential Information, Governing Law, Submission to Jurisdiction, and Survival.
- 18.7 **Amendment and Waiver.** This Agreement may not be modified except in a writing signed by both Parties. No waiver by either Party of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by the waiving Party. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement 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.
- 18.8 **Clerical Errors.** Seller reserves the right to unilaterally correct clerical, arithmetical, or stenographic errors or omissions in quotations, order acknowledgements, invoices, or other documents.