



RCRMS LLC  
PURCHASE ORDER TERMS AND CONDITIONS

These terms and conditions, along with RCRMS LLC Standard Purchase Order Terms and Conditions then in effect and incorporated herein by reference (collectively, the "Contract Terms"), shall apply to and govern any request for goods, services, or other performance specified in such request (each, a "Purchase Order") issued by RCRMS LLC. ("RCR" or "Buyer") to the supplier, party or parties identified in any such request (the "Supplier"). Unless otherwise provided by the Buyer in writing, these Contract Terms shall flow down to and shall govern the performance of any Supplier Personnel, as that term is defined below, of any obligation specified in a Purchase Order. RCR's Standard Purchase Order Terms and Conditions then in effect shall control in the event they conflict with these Condensed Terms and Conditions.

#### 1.0 ACCEPTANCE

Supplier's acceptance of this Purchase Order, either by prompt written acknowledgment, delivery of an invoice, delivery of goods, commencement of services, or the fulfillment of any part of a Purchase Order, shall constitute acceptance by Supplier of such Purchase Order and all of the terms and conditions included or referenced herein (the "Contract Terms"), regardless of whether a Purchase Order was reduced to writing or not. Buyer objects to any terms proposed in Supplier's proposal, sales note, acknowledgment or other form of acceptance of Buyer's offer which purport to vary from the Contract Terms. Any additional or different terms or conditions detailed in Supplier's forms or other writings ("Supplier's Terms"), including without limitation Supplier's interpretation thereof, are hereby deemed to be material alterations to the Contract Terms, and Buyer objects to and expressly rejects Supplier's Terms. The Contract Terms constitute the complete and exclusive statement of the terms and conditions between Supplier and Buyer, and Supplier's Terms are void.

These Contract Terms may only be modified in a writing signed by authorized representatives of both Supplier and Buyer. If a Purchase Order has been issued by Buyer in response to Supplier's offer and if any of these Contract Terms add to, vary from or conflict with any terms of Supplier's offer, then the issuance of a Purchase Order by Buyer shall constitute acceptance of Supplier's offer, subject to the express conditions that Supplier (a) assent to any additional, different and conflicting terms expressed in these Contract Terms and (b) acknowledge that the Purchase Order and these Contract Terms constitute the entire agreement between Supplier and Buyer with respect to the subject matter thereof and the subject matter of Supplier's offer, unless Supplier notifies Buyer to the contrary in a writing signed by Supplier's authorized representative within ten (10) working days of receipt of the Purchase Order.

#### 2.0 ATTACHMENTS

Any documents or information supplied by Buyer or the ultimate customer or recipient of the goods, services, or other performance specified in a Purchase Order, including without limitation any agreements, attachments, exhibits, specifications, drawings, notes, instructions, whether physically attached or incorporated by reference, pertaining to the subject matter of a Purchase Order (the "Attachments") shall form a part of such Purchase Order and these Contract Terms.

#### 3.0 TERMINATION

Buyer may, at any time by written notice, terminate for convenience any Purchase Order or any obligation under a Purchase Order. The effective date of any such termination notice shall be not less than 10 days from the date of notice. Buyer shall pay for any products delivered or services performed prior to the date that termination becomes effective (on a pro rata basis if Buyer has paid in advance). Notwithstanding any such termination notice, Buyer shall be entitled to the delivery of all product(s), the completion of all services, and the performance of all obligations for which it has paid prior to the effective date of the termination.

In addition to any other remedy provided at law or equity, each party shall have the right to terminate or cancel a Purchase Order, or any obligation under a Purchase Order, in the event the other party (a) fails to comply with any condition of the Purchase Order or these Contract Terms and such failure is not remedied within thirty (30) days after written notice thereof has been given to such other party; (b) becomes insolvent, makes an assignment for the benefit of creditors, suffers or permits the appointment of a receiver, trustee in bankruptcy or similar officer for all or parts of its business or assets; or (c) avails itself of or becomes subject to any bankruptcy proceeding under the laws or any jurisdiction relating to insolvency or the protection of rights of creditors.

#### 4.0 CONFIDENTIALITY

All specifications, documents, artwork, or drawings delivered to Supplier by Buyer, and any other non-public information Buyer discloses to Supplier, are and shall remain Buyer's property. The information is provided to Supplier solely for the purpose of Supplier's performance of the Purchase Order and on the express condition that neither the Purchase Order nor the information contained therein or provided in connection therewith shall be disclosed to others or used for any purpose other than in connection with the Purchase Order without Buyer's prior express written consent. Buyer reserves the right to request that Supplier return all such information to Buyer or destroy it. Supplier's obligations under this paragraph shall survive the cancellation, termination or other completion of the Purchase Order.

#### 5.0 WARRANTY

Supplier expressly warrants that all products, services and other performance supplied by Supplier or Supplier's Personnel to Buyer shall: (a) conform to the specifications, drawings or other description(s) upon which the goods, services or other performance is (are) based; (b) be fit and sufficient for the purpose intended, merchantable, of good and new material and good workmanship, and free from defects; and (c) free and clear of all liens or encumbrances. Inspection, testing, acceptance or use of the goods by Buyer shall not affect Supplier's obligations under this warranty, and such warranty shall survive inspection, testing, acceptance and use.

Supplier agrees to promptly replace or correct defects of any non-conforming goods, service or other performance without expense to Buyer. If Supplier fails to correct defects in or replace non-conforming goods or services promptly, Buyer may, after reasonable notice to Supplier, make such corrections or effect cover at Supplier's expense.

#### 6.0 PRICE

No Purchase Order shall be filled at a price higher than that shown on the Purchase Order. All monetary amounts are expressed in U.S. dollars, unless otherwise specified. If no price is shown, Supplier shall notify the Buyer who issued the Purchase Order of the price, and Buyer's acceptance shall be obtained in writing before Supplier fills the Purchase Order. In any event, the price shall not be higher than the lowest price Supplier provides to any of Supplier's other customers ordering similar services or similar quantities of goods, after taking into consideration all rebates, discounts and allowances.

Unless otherwise provided on the Purchase Order, delivery of Goods shall be f.o.b. destination. Supplier shall not charge for boxing, packing, crating or other charges. Supplier's prices include any and all related customs duty. If Supplier sells products to Buyer, or if the services include provision to Buyer of any deliverables, which are subject to any customs duty, then Supplier's prices shall be inclusive of any and all related customs duty.

#### 7.0 TAXES

Buyer shall not be liable for any taxes with respect to a Purchase Order, except for sales, use, retailers occupation, service occupation, excise, ad valorem, value added, or consumption taxes imposed by any governmental authority for the purchase of the products Supplier supplies, which Supplier is required by law to collect from Buyer.

#### 8.0 INVOICES

Supplier shall issue invoices referencing the Purchase Order, Purchase Order number (where applicable), line number (where applicable), release number (where applicable), item number, description of items, sizes, quantities, unit prices and extended totals. If a Purchase Order contains more than one item, Supplier's invoice will make the proper reference. Taxes collected by Supplier shall be stated separately and shall be remitted by Supplier to the appropriate taxing authority. All invoices shall comply with the requirements of each relevant taxing authority and shall contain data and registration numbers that will enable Buyer to obtain appropriate credit for any Taxes charged. All invoices shall be mailed to the address below:

RCRMS, LLC  
425 Industrial Drive  
Welcome, NC 27374  
Fax No.: (336) 731-5626  
Attn: Accounts Payable

Failure to comply with the above may result in delayed payment or returned invoices.

#### 9.0 PAYMENT

As full consideration for Supplier's satisfactory provision of the products and/or performance of the services or other obligations, Buyer will pay Supplier's invoice not later than sixty (60) days following Buyer's receipt of said invoice, subject to Buyer's acceptance under Section 18.0 herein.

#### 10.0 FORCE MAJEURE

10.1 Neither party shall be liable for a delay in performance of its obligations and responsibilities under this Purchase Order due to causes beyond its control, and without its fault or negligence, such as but not limited to war, embargo, national emergency, insurrection or riot, acts of the public enemy, fire, flood or other natural disaster, provided that said party has taken reasonable measures to notify the other promptly in writing, of delay (but in any event, within 72 hours of the force majeure event).

10.2 Time is of the essence of this Agreement. Should Supplier fail to comply with Buyer's delivery schedule or any of its other obligations hereunder, Buyer may terminate this Purchase Order without liability. Failure of subcontractors or inability to obtain materials shall not be considered as a force majeure delay.

#### 11.0 INTELLECTUAL PROPERTY

11.1 The term "Intellectual Property" means, without limitation, any and all ideas, concepts, know-how, designs, technology, research, plans, specifications, documents, copyrighted materials, patents, trademarked materials, trade secrets, business processes, patents (either pending or approved), patentable subject matter, proprietary information, confidential information, tangible and intangible materials, works of authorship, and other data and subject matter.

11.2 Each party owns and shall retain any and all right, title, and interest in and to the Intellectual Property created and/or developed by that Party prior to the date of any Purchase Order, inclusive of any and all derivatives, modifications, improvements and/or changes therein or thereto, unless such Intellectual Property was developed in connection with the subject matter of a Purchase Order, in which case the Intellectual Property will be subject to the terms and conditions of paragraph 11.3, below.

11.3 In the event any Intellectual Property is jointly generated, conceived or developed by the parties in connection with any Purchase Order, including any patents or patentable subject matter, copyrights and other intellectual property rights specifically related thereto (the "Developed Material"), such Intellectual Property shall belong to Buyer, unless an agreement

concerning the specific subject matter of a specific Purchase Order expressly provides otherwise.

#### **12.0 INDEMNITY**

Supplier shall, at Supplier's sole cost and expense, release, defend indemnify and hold Buyer and any of Buyer's Affiliates, directors, officers, agents, employees, shareholders and contractors harmless from and against all claims, demands, disputes, complaints, causes of action, suits, losses and damages (including attorneys' fees) of any kind to the extent they in any way relate to or arise, in whole or in part, in the performance of this Purchase Order or in any breach or default hereunder.

#### **13.0 INSURANCE**

**13.1** Supplier shall maintain, and require its agents and subcontractors, if any, to maintain, in full force and effect throughout the entire term of the Purchase Order, insurance coverage in amounts acceptable to Buyer (and in no event less than a reasonable amount sufficient to satisfy Supplier's defense and indemnification obligations hereunder), which shall cover any liabilities that may occur in the performance of services and the delivery of goods under the Purchase Order.

**13.2** The obligation of Supplier to provide the insurance specified herein shall not limit in any way the liability or obligations assumed by Supplier elsewhere in the Purchase Order.

#### **14.0 LIMITATION OF LIABILITY**

**IN NO EVENT WILL BUYER BE LIABLE TO SUPPLIER OR ANY THIRD PARTY, IN CONTRACT, TORT OR OTHERWISE, FOR ANY LOSS OF PROFITS OR BUSINESS, OR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, ARISING FROM OR AS A RESULT OF THESE CONTRACT TERMS, ANY PURCHASE ORDER OR ANY AGREEMENT BETWEEN THE PARTIES RELATING TO THE PRODUCTS, SERVICES OR DELIVERABLES SUPPLIER PROVIDES, OTHER THAN FOR THE AMOUNT OF THE AGREED UPON PURCHASE PRICE OF THE SERVICES OR GOODS PURSUANT TO THE PROVISIONS OF THE PURCHASE ORDER INCLUDING, WITHOUT LIMITATION, THE PURCHASE ORDER TERMS AND CONDITIONS, EVEN IF BUYER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

#### **15.0 CHANGES**

**15.1** Buyer may, at any time, make changes within the scope of any Purchase Order by issuing a written change Purchase Order (a "Change Order"). If any Change Order has an effect on the price, warranty, delivery date or indemnification provisions of the Purchase Order, an equitable written acknowledgement of the effect on the changed provisions shall be indicated on the Change Order or delivery schedule, or both.

#### **16.0 RISK OF LOSS**

Regardless of the method of shipment used, Supplier agrees to deliver all product specified on the Purchase Order to the location(s) specified on the Purchase Order at Supplier's own risk. Supplier shall bear the risk of loss, destruction or damage until the items are accepted by Buyer. Identification of goods under section 2-501 of the Uniform Commercial Code for the Commonwealth of Virginia shall occur upon acceptance of Supplier's acceptance of the Purchase Order relating to such goods or as soon thereafter as the goods are identifiable.

#### **17.0 DELIVERY**

**17.1** Time is of the essence. Supplier shall comply with Buyer's shipping, delivery, installation or startup schedules (as applicable) without any delay and without anticipating Buyer's requirements, and shall comply with the provisions and follow the procedures specified by Buyer.

**17.3** Buyer's acceptance of late shipments or partial shipments shall not constitute a waiver of any of Buyer's rights to collect damages for goods not delivered or for late delivery. Supplier shall report to Buyer any delays in a schedule immediately as they become known to Supplier.

**17.4** Buyer reserves the right to cancel the Purchase Order and effect cover if Supplier cannot comply with the schedule(s) indicated on the Purchase Order. If dates are not specified on the Purchase Order, Supplier shall procure materials, fabricate, assemble and ship goods or provide services only as authorized by shipment releases Buyer issues to Supplier.

**17.5** If it becomes necessary for Supplier to ship by a more expensive mode than specified on the Purchase Order in order to meet a schedule, Supplier shall pay any resulting premium transportation cost(s) unless Supplier can establish to Buyer's satisfaction that the necessity for the change in routing is occasioned by force majeure events.

#### **18.0 ACCEPTANCE**

**18.1** Payment by Buyer for the products or services delivered hereunder shall not constitute Buyer's acceptance. Buyer retains the right to inspect the products or services performed and to reject any or all of the products or services performed which are in Buyer's judgment defective, as well as the right to inspect Supplier's manufacturing operations, handling and storage of products and raw material, including the equipment used to manufacture the products. Buyer will give Supplier reasonable notice of any planned Supplier site visit. No inspection or test made prior to final acceptance shall relieve Supplier for defects or other failure to meet the requirements of this Agreement.

**18.2** Products rejected by Buyer and products supplied in excess of quantities called for herein may be returned to Supplier at Supplier's expense. In addition to Buyer's other rights, Buyer may charge Supplier all expenses of unpacking, examining, repacking, and reshipping such goods.

**18.3** In the event Buyer receives any goods whose defects or nonconformities are not apparent on examination, resulting in deterioration of Buyer's finished product, Buyer reserves the right to require replacement thereof, as well as payment of any resulting damages.

**18.4** If a shipment is rejected based upon Buyer's inspection, and such rejection increases the risk of jeopardizing Buyer's production schedules by reason of the fact that at least some of the products are necessary to meet such production schedules, then Buyer, at its option, may charge Supplier for the reasonable costs of an increased level of inspection up to and including inspection of each of the products comprising such shipment.

#### **19.0 ASSIGNMENT/DELEGATION/SUBCONTRACTING**

**19.1** Supplier may not assign, delegate, subcontract or transfer any Purchase Order, the work required to be done or any payments to be made hereunder without Buyer's prior written approval. In the event of agreed delegation or subcontracting, Supplier shall remain liable with respect to all of the obligations or liabilities assumed by it under the subject Purchase Order and hereby guarantees satisfactory performance thereunder by its delegate or subcontractor.

**19.2** All claims for monies due or to become due from Buyer shall be subject to deduction by Buyer for any setoff or counterclaim arising out of this or any other Purchase Orders with Supplier whether such setoff or counterclaim arise before or after such assignment, delegation, subcontracting or transfer by Supplier.

#### **20.0 EXPORT/IMPORT:**

**20.1** Any export credits belong to Buyer, and Supplier shall furnish all documents required for international shipments, and upon request, all documents required by Buyer to obtain export credits and customs drawback and remission. Supplier shall include a priced invoice with the master packing slip for international shipments. Upon Buyer's request, Supplier shall furnish certificates that identify the country of origin of the materials used in the goods Buyer purchase from Supplier and the value added thereto in each country.

**20.2** To the extent that the export compliance laws and regulations of the United States or any other country, including but not limited to the U.S. Export Administration Regulations (the "EAR") and the International Traffic in Arms Regulations (the "ITAR"), apply or pertain to the export of any goods or services under any Purchase Order by Supplier, Supplier shall undertake on a best efforts basis all steps reasonably necessary to obtain any authorization(s) required by any relevant authority for the export of any goods and/or services required by any Purchase Order, unless otherwise agreed upon by the parties in writing.

#### **21.0 COMPLIANCE WITH LAWS.**

Supplier shall procure all necessary licenses or permits and shall abide by all applicable statutes, laws, regulations, and ordinances of the United States and of the state, territory, and political subdivision in which any work under the Purchase Order is performed.

#### **22.0 REMEDIES**

Buyer's remedies shall be cumulative and shall include any remedies allowed by law. Waiver of any breach by Buyer shall not constitute Buyer's waiver of any other breach of the same or any other provision. Acceptance of any items or payments therefore shall not waive any breach.

#### **23.0 GOVERNING LAW; RESERVATION OF JURISDICTION**

This agreement shall be construed in accordance with the laws of the Commonwealth of Virginia, U.S.A., exclusive of its conflicts of laws provisions and the U.N. Convention on the International Sale of Goods. Supplier hereby consents to the jurisdiction of any local, state, or federal court located within the Commonwealth of Virginia and waives any objection which Supplier may have based on personal jurisdiction, improper venue or forum non conveniens to the conduct of any proceeding in any such court. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.

#### **24.0 ENTIRE AGREEMENT**

This Agreement and associated documents referenced herein constitute the entire agreement between the parties with respect to the subject matter hereof; all prior agreements, representations, statements, negotiations and undertakings, whether oral or written, are superseded hereby. In the event Buyer acquires, is acquired by or merges with another company that has a written contract with Supplier, or otherwise assumes a contract between Supplier and the acquiring, acquired or merging company (each, a "Legacy Contract"), Buyer may at its sole option terminate the Legacy Contract by written notice and elect to have this Agreement govern all transactions between Supplier and Buyer and its Affiliates from and after the date given in the notice.