

JRT Associates

Terms and Conditions

January 1, 2011

1. Who We Are.

JRT Associates is the trade name and service mark of Theodore H. Rubel, Inc. a New York corporation (referred to below as **JRT**) that owns and operates or has operated on its behalf this **Web site** (as defined below).

2. Definitions.

a) **Intellectual Property Rights** means, by way of example, but is not limited to, the following: rights in know-how, trademarks, copyrights, patents, patent applications (including reissues, renewals, continuations, continuations-in-part, or divisions of any patent or patent application), trade secrets, instructions, improvements, modifications, suggestions, proposals, programs, ideas, writings, and the like of any sort whatsoever, and any embodiment thereof including, but not limited to, devices, computer programs, documentation, assembly and detailed drawings, plans, specifications, results of technical investigations and research, assembly, and parts manuals, artwork, software, programming, applets, scripts, designs, and any other proprietary information.

b) **Our, We, or Us** refers to **JRT**

c) **Web site** means a site having the URL of www.jrtassoc.com, www.jrtassociates.com or any other Web site operated by or on behalf of **JRT** from time-to-time.

d) **You or Your** refer to any and all individuals and/or any and all individuals acting on behalf of any entities who access the **Web site** and make purchases of goods or services.

3. Modifications.

a) **We** reserve the right to modify these Agreement and any policies affecting the **Web site**. Any modification is effective as of the earlier of:

(i) The posting of the changes or new Agreement on the **Web site**; or

(ii) The distribution via electronic mail of the changes or of new Terms of Use.

b) **Your** continued use of the **Web site** following the effective date of any modification to these Terms of Use shall be conclusively deemed an acceptance by **You** of all such modification(s).

4. Purpose.

The purpose of the **Web site** is to enable **You** to easily purchase and use the products and services offered by **Us**.

5. Conditions of Purchase

a) **Terms:** Net thirty (30) days to qualified accounts. Shipping is prepaid and added unless otherwise specified.

- b) **Prices and Specifications:** All prices are subject to change without notice. Specifications shown on the *Web site* were in effect at the time of first displayed, but are subject to change without notice. For current information and updated pricing, call *Us* at 800-221-0111.
- c) **Exchanges or Returns:** If *You* are not satisfied with *Your* order, it may be returned for full credit or exchanged for a more suitable product. Some products may not be exchanged or returned (including, but not limited to custom products and some refurbished products); exchanges or returns are subject to a restocking charge. To exchange or return a product, *We* must be notified within ten (10) days of receipt by *You* of the shipment. A product, to be returned, must be returned to *Us* in its original box and in resalable condition. A return authorization number must be assigned by *Us* in advance.
- d) **Shipping:** *We* ship UPS whenever possible. UPS shipping charges are prepaid and added to your invoice. Freight shipments are also prepaid and added to your invoice.
- e) **Delivery:** Items under seventy pounds (70 lb.) are usually shipped UPS and generally no problems occur when unloading. Freight deliveries to loading docks may require that *You* provide assistance at the receiving facility for unloading. If there are no loading dock facilities available, or no personnel available to handle heavy items, it is *Your* obligation to specify **INSIDE DELIVERY** when placing the order with *Us*.
- f) **Minimum Order:** *We* require a minimum order of fifty dollars (\$50.00).
- g) **Damage in Shipment:** Packaging of all products complies with, and in most cases, exceeds, requirements of Consolidated Freight Classification. *You* should open all shipments immediately upon receipt for damage inspection. If damage is observed, hold the shipment packaging and contact *Your* carrier immediately. The notification to the carrier must be made by *You* within ten (10) days of receipt by *You* of the products. Although *Our* responsibility ceases upon *Your* acceptance of the shipment from the carrier, *We* will attempt to assist in any way possible in processing *Your* claim.
- h) **Insurance:** If the terms and conditions in this Paragraph 5 are followed, *Your* shipment is insured one hundred percent (100%) against loss or damage.
- i) **Consequential Damages:** In no event shall *We* be liable for incidental, special, or consequential damages in connection with or arising from the furnishing, performance, or use of any product. Any misuse by *You*, *Your* customer, or the agents, employees, or others under control by *You*, *Your* customer's, or their respective agents or employees will void any warranties.

6. Proprietary Rights.

Except as expressly provided in this Terms of Use or by the manufacturer or licensor of a product sold by *Us* to *You*, *We* do not grant you any rights to patents, copyrights, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights, franchises, or licenses. *You* will not adapt or use any trademark or trade name which is likely to be similar to or confusing with *US* or any of its suppliers or take any other action which impairs or reduces the trademark *Our* rights or that of *Our* suppliers.

7. Information You Provide Us

With respect to technical or other information you provide to *Us* as part of placing any order, or in any other communications with *Us* in whatever media it is expressed, *We* may use such information for its business purposes, including for product support and development. *You* agree that all such submissions are unrestricted and shall be deemed non-confidential and *You* automatically grant *Us* and *Our* successors and assigns a non-exclusive, royalty-free, worldwide, perpetual, irrevocable license in all ***Intellectual Property Rights***, with the right to sublicense, to use, copy, transmit, distribute, create derivative works of, display and perform the same.

8. Termination

Without prejudice to any of *Our* other rights, *We* may terminate this Agreement if *You* fail to comply with any of the Terms of Use herein or if you violate *Our* "Acceptable Use Policy" which *We* post at www.jrtassociates.com or such other location as *We* may determine at *Our* discretion. In such event, *We* may suspend or deactivate *Your* account with or without notice and such shall be without liability to *You*.

9. Governing Law and Jurisdiction

This Agreement shall be governed by the laws of the State of New York and jurisdiction for any dispute, except as expressly provided herein, shall be exclusively within the courts located within the State of New York and the County of Westchester.

10. Arbitration

Notwithstanding any term herein to the contrary, any dispute arising directly or indirectly under Agreement may, at *Our* sole and exclusive discretion, be submitted to, and settled by arbitration by at least one (1) arbitrator. The arbitration shall be conducted in accordance with the rules for conducting arbitration as set forth by the American Arbitration Association under its Commercial Arbitration Rules, which arbitration shall take place in Westchester County, New York State. Each arbitrator shall (a) strictly apply New York law, (b) the Federal Rules of Evidence (c) the terms of this Agreement and (d) shall have no power to strike, amend, or modify said terms. Any such proceeding shall, at *Our* exclusive discretion and be held in confidence by all parties and witnesses. The judgment or the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof and there shall be no trial de novo. At *Our* sole discretion the arbitrator(s) may have equitable powers including the right to issue temporary restraining orders and preliminary injunctions.

11. Disclaimer of Warranties

THE GOODS ARE PROVIDED "AS IS." EXCEPT AS EXPRESSLY WARRANTED BY OUR SUPPLIERS TO *YOU*, *WE* AND *OUR* SUPPLIERS DO NOT AND CANNOT WARRANT THE PERFORMANCE OR RESULTS *YOU* MAY OBTAIN BY USING THE GOODS. EXCEPT AS EXPRESSLY SET FORTH ABOVE, *WE* AND *OUR* SUPPLIERS MAKE NO WARRANTIES, EXPRESS OR IMPLIED, AS TO TITLE OR INFRINGEMENT OF THIRD-PARTY RIGHTS, INCLUDING, BUT NOT

LIMITED TO, RIGHTS IN **INTELLECTUAL PROPERTY RIGHTS**, AND MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. IN NO EVENT SHALL **WE** OR **OUR** SUPPLIERS BE LIABLE TO **YOU** FOR LOST DATA, COST OF COVER, OR OTHER ANY CONSEQUENTIAL, INCIDENTAL, OR SPECIAL DAMAGES, INCLUDING ANY LOST PROFITS OR LOST SAVINGS, EVEN IF **OUR** REPRESENTATIVE HAS ADVISED **YOU** OF THE POSSIBILITY OF SUCH AWARD OF DAMAGES OR FOR ANY DEFENSE OR RECOVERY ARISING FROM A CLAIM BY ANY THIRD PARTY.

12. Rules.

Violations by **You** of the following shall, in addition to any other remedies in law or equity, permit **Us** to terminate this Agreement without further liability and without effecting any other remedies **We** might have:

- (a) **You** shall not reprint, republish or distribute in any way any information or materials found on the **Web site**.
- (b) **You** shall not use any of the information on the **Web site** or on any of the presentations for sending emails or for solicitation purposes or for any other purposes involving solicitation in any way.
- (c) **You** shall not provide to **Us** any information that is not correct, such as an incorrect name, address, email address, or other incorrect information.
- (d) **You** shall not attempt to decipher, decompile, disassemble, or reverse engineer any of the software in any way used on or in connection with the **Web site** or its operations.

13. Links.

You agree that **We** have not reviewed the content of all sites linked to or from the **Web site** and that **We** are not responsible for the content of any of those sites and do not take responsibility for them or endorse them.

14. Indemnity.

You agree to indemnify and hold **Us**, and **Our** directors, officers, employees, and representatives harmless from any and all losses (including, but not limited to, attorney's fees) resulting from any claims that **You** assert, or may assert, based on or relating to **Your** use of the **Web site** and any and all losses resulting from claims of third parties, including, but not limited to, attorney's fees, that result, in whole or in part, from violations by **You** of any of the terms of this Agreement.

15. Assignments.

You may not assign any of **Your** rights or obligations hereunder.

16. Force Majeure.

We shall not be liable for any default or delays in the execution or completion of this sale of the orders provided thereunder if such delay is caused by strikes, lockouts, riots, epidemics, wars, government regulations, floods, accidents, fires, acts of God, delays in transportation, or any other cause beyond its control. *We* may, at *Our* discretion, cancel or suspend deliveries without liability, but this Agreement shall otherwise remain unaffected.

17. Survivability.

The ownership and proprietary rights provisions set forth in this Agreement, and any other provisions that by their sense and context the parties intend to have survive, shall survive the termination of this Agreement and any obligations hereunder for any reason.

18. Severability.

The unenforceability or invalidity of any term, provision, section or subsection of this Agreement shall not affect the validity or enforceability of any remaining terms, provisions, sections or subsections of this Agreement, but such remaining terms, provisions, sections or subsections shall be interpreted and construed in such a manner as to carry out fully the intention of the parties hereto.

19. Interpretation.

The fact of authorship by *Us* shall not affect the construction or interpretation of this Agreement.

20. Definition and Headings.

- a) The definitions provided herein are referred to herein by bold and italicization throughout this Agreement. The definitions of such terms are understood to be applicable to both singular and plural uses of such defined terms.
- b) The titles of this Agreement are inserted for convenience only and shall not be construed as limiting in any manner.

21. Amendments

No amendment or modification of this *Agreement* shall be valid or binding unless the same shall be made in writing and signed on behalf of each party.

22. Waiver

- a) The failure to enforce any of the terms and conditions of this Agreement by *Us* shall not be deemed a waiver of any other right or privilege under this Agreement or a waiver of the right to thereafter claim damages for any deficiencies resulting from any misrepresentation, breach of warranty, or nonfulfillment of any obligation.
- b) In order for there to be a waiver of any term or condition of this *Agreement*, such waiver must be in writing and signed by the party making such waiver.

23. Attorney's Fees

Should *We* prevail in any lawsuit, action, or proceeding in contract or in tort or otherwise arising out of or related to this Agreement, *We* shall be entitled to recover all of *Our* costs

and expenses including, without limitation, **Our** reasonable attorneys= fees incurred in connection with such lawsuit, action, or proceeding, including any appeal of such lawsuit, action, or proceeding.

24. Sales Across International Boundaries

As between the parties hereto, and in the sale and delivery of any goods, under the United Nations Convention on Contracts for the International Sale of Goods (as adopted and amended from time-to-time) shall expressly not apply to any sale of goods deemed to arise under in this or any other agreement between the parties; the parties expressly adopt the jurisdiction and the law of and within the State of New York.

25. Credit:

Each delivery to be made hereunder shall be subject to receipt of cash or to credit arrangements made by **Us** with **You**. If payment is not made in accordance with the terms thereof, or if any time in **Our** judgment **Your** credit standing has been impaired, **We** may withhold delivery of any products sold hereunder until, in the case of future deliveries, satisfactory cash or credit arrangements have been made and, in the case of goods already delivered, satisfactory security arrangements have been made for payment of all outstanding balances. If **You** fail, neglect, or refuse to make cash or credit arrangements satisfactory to **Us**, or to comply with the terms thereof, then **We** may, without waiving any other remedies it may have against **You**, terminate this Agreement without further liability on **Our** part.

26. Conflicting Terms

If any terms of any preceding or subsequent agreement relative to a purchase of goods or services from **Us** are in conflict with the terms and conditions specified herein, then the terms and conditions herein shall control.