



Terms and Conditions for Purchase Orders

TERMS AND CONDITIONS OF PURCHASE

1. AGREEMENT. STRATA-TAC, INC. ("STRATA-TAC") WILL NOT ACCEPT AND OBJECTS TO ANY TERMS AND CONDITIONS OR OTHER WRITING ON SELLER'S SALES ORDER OR ACKNOWLEDGEMENT WHICH IS DIFFERENT FROM OR ADDITIONAL TO THE (i) TERMS AND CONDITIONS CONTAINED HEREIN OR (ii) TERMS AND CONDITIONS CONTAINED IN THE ATTACHED PURCHASE ORDER (COLLECTIVELY WITH THESE TERMS AND CONDITIONS OF PURCHASE, THE "PURCHASE ORDER"). NO MODIFICATION OR WAIVER OF THE PURCHASE ORDER WILL BE EFFECTIVE UNLESS SPECIFIED IN WRITING AND SIGNED BY THE PARTY AGAINST WHOM ENFORCEMENT IS SOUGHT. NO TERM OR CONDITION OF SELLER'S SALES ORDER OR ACKNOWLEDGEMENT, EXPRESSLY INCLUDING ANY EFFORT TO NEGATE THE PURCHASE ORDER, SHALL BE EFFECTIVE OR BINDING AGAINST STRATA-TAC. THE PURCHASE ORDER SHALL CONSTITUTE WRITTEN NOTICE SIGNED BY STRATA-TAC OF OBJECTION TO AND REJECTION OF ANY TERM OR CONDITION IN SELLER'S SALES ORDER OR ACKNOWLEDGEMENT, INCONSISTENT WITH THE PURCHASE ORDER, WHETHER ISSUED OR DELIVERED TO STRATA-TAC PRIOR OR SUBSEQUENT TO THE DATE OF THE PURCHASE ORDER.

2. PRICE AND PAYMENT.

2.1 The price to be paid for the products shall be set forth in the Purchase Order. The parties agree that all charges are included in the price of the products including all applicable federal, state or local taxes, use or other taxes, shipping, storage and packaging, including insurance and other expenses associated with the Purchase Order. Any additional changes or expenses of any kind shall not be allowed unless agreed in writing by Strata-Tac.

2.2 Payment is deemed made when Strata-Tac's payment is mailed. Payment by Strata-Tac shall not constitute acceptance of an order. Unless otherwise specified on the face of the Purchase Order, payment is due within forty-five (45) days of the later to occur of (i) receipt of the products by Strata-Tac which conforms with the Purchase Order, or (ii) receipt of an invoice from Seller. In connection with any discount offered for early payment, time shall be computed from the date of the receipt of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which payment is mailed or the specified electronic funds transfer date. No late charges shall be assessed against Strata-Tac for the late payment of an invoice. If Strata-Tac fails to pay an invoice when due, Seller shall give Strata-Tac not less than thirty (30) days written notice to cure such failure prior to declaring a breach of the parties agreement.

3. PACKING, SHIPPING AND STORAGE.

No charge will be assessed against Strata-Tac for packing, crating, shipping, storage and/or any other services unless agreed upon in writing at time of purchase, and shipments must be packed and crated to conform with the requirements of the carriers and all applicable federal, state and local laws. Unless otherwise specified, all packing, packaging, and crating by Seller shall be in compliance with carrier's instructions and in suitable containers and packing materials for protection in shipment and storage.

4. INSPECTION AND NON-CONFORMING GOODS.

4.1 Upon receipt of the products, Strata-Tac may inspect the products for conformance to the Purchase Order and may reject any non-conforming or otherwise defective or damaged products by giving notice of such rejection to Seller within a reasonable time. Strata-Tac may reject any delivered goods for nonconformance with the Purchase Order. For purposes of the Purchase Order, a non-conforming good shall be deemed a product that fails to meet the specification set forth on the Purchase Order, breaches any of the representations and warranties set forth herein, or is otherwise defective or contaminated. The products rejected by Strata-Tac will be returned to Seller and Seller shall be responsible for all charges incurred for the shipment of nonconforming or otherwise defective or damage products to and from Strata-Tac. Despite any prior payment or acceptance, the products are subject to inspection by Strata-Tac for sixty (60) days after delivery. As to any defect not discoverable by inspection, Strata-Tac may reject the products at any time.

4.2 Products delivered in excess of the amount called for in this Purchase Order may be refused by Strata-Tac and returned at Seller's expense. In the event the quantity delivered is less than the quantity ordered, Strata-Tac, at its sole option, may either (i) accept the quantity delivered as fulfillment of this Purchase Order and receive a refund of the purchase price and other expenses incurred with respect to the undelivered products, (ii) reject the Purchase Order and return the short shipment at Seller's cost or (iii) require the Seller to deliver the balance of the products in accordance with the terms of the Purchase Order in a timely fashion. If Strata-Tac elects to accept less than the quantity ordered, the price of the Purchase Order shall be adjusted accordingly.

5. CANCELLATION.

5.1 Strata-Tac may cancel and terminate this Purchase Order at any time prior to delivery in which case Strata-Tac's sole and exclusive financial obligation and liability will be limited to actual damages as set forth herein. Actual damages shall be measured by the actual, direct cost to Seller of products supplied (as supported by documents presented by Seller); provided that Seller shall be obligated to use best efforts for a reasonable time to sell the products to other prospective purchasers (in which event Strata-Tac's liability shall be measured by the difference, if any, between said actual damages and the proceeds of any resale of the products by Seller). In any event, if the products are fungible and in a reasonable and general saleable condition (and not unique or custom), then Strata-Tac's sole and exclusive liability hereunder shall be a reasonable charge for storage of such products by Seller until resold, but in no event exceeding thirty (30) days.

5.2 Seller acknowledges that time is of the essence to the Purchase Order; and therefore, Seller shall have no right to cancel or terminate the Purchase Order and Seller acknowledges and agrees that in the event of a breach of the Purchase Order by Seller that Strata-Tac shall be entitled to all remedies available to it at law or in equity including money damages for both direct and indirect damages (indirect damages being deemed to include, without limitation, damages resulting in connection with the breach of any other agreement between Strata-Tac and a third party, the subject matter of which relates to this Purchase Order).

6. DELIVERY.

The products shall be delivered by the date or dates set forth on the front side of the Purchase Order, or in the absence thereof, as promptly as practicable. Unless otherwise agreed elsewhere in the Purchase Order, the products shall be shipped and delivered F.O.B. to Strata-Tac's place of business, or at such other address Strata-Tac may direct from time to time. Strata-Tac shall select the method of shipment and carrier unless otherwise agreed upon in writing by the parties. Proper packing list and shipping documents must accompany all shipments. Strata-Tac reserves the right to change shipping dates specified for any portion of the Purchase Order.

7. INDEMNIFICATION.

Seller hereby covenants and agrees to indemnify and hold Strata-Tac and its successors, assigns, employees, agents, customers and users of its products, harmless against and from all liability, demands, claims, actions or causes of action, assessments, losses, fines, penalties, costs, damages and expenses, including reasonable attorneys' fees, sustained or incurred by Strata-Tac as a result of or arising out of or by virtue of (i) Seller's failure to deliver the products in conformance with Strata-Tac's Purchase Order, (ii) any inaccuracy in a representation or warranty made by Seller to Strata-Tac herein, (iii) the failure of Seller to comply with, or the breach by Seller, of any of the covenants of the Purchase Order to be performed by Seller (including, without limitation, anything contained in the Purchase Order, (iv) for Seller's negligent acts or omissions, (v) for failing to comply with any and all applicable federal, state and local laws, statutes, orders, rules and regulations, and standards issued thereunder in effect on the date that the Purchase Order is accepted, and (vi) third party claims made by Strata-Tac's customers relating to any of the foregoing matters.

8. FORCE MAJEURE.

Strata-Tac reserves the right, without any liability to Seller, to defer delivery under the Purchase Order, cancel or modify the Purchase Order or change any performance dates in the event of a strike, lockout, concerted act of workers or other industrial disturbance, fire, explosion, flood, or other natural catastrophe, civil disturbance, riot, act of war or terrorism, or armed conflict whether declared or undeclared, curtailment, shortage, rationing or allocation of normal sources of supply of labor, materials, transportation, energy or utilities, mechanical breakdown, equipment failure, accident, Act of God, delay of subcontractors or vendors, sufferance of or voluntary compliance with acts of government and government regulations (whether or not valid), embargo, or due to any other cause whether similar or dissimilar to any of the causes or categories of causes described above and which is beyond the reasonable control of Strata-Tac.

9. TITLE AND RISK OF LOSS.

Regardless of the delivery terms specified in the Purchase Order, title and risk of loss shall pass to Strata-Tac at the time the products are delivered to Strata-Tac's designated shipping address.

10. CONFIDENTIALITY.

In consideration of Strata-Tac purchasing the products, Seller shall keep confidential and not disclose to any persons, or use, any and all confidential and proprietary knowledge, information or materials, with respect to Strata-Tac's business, including, without limitation, customer names, customer supplied information, pricing, quantities, business and marketing plans and strategy, processes and trade secrets for so long as permitted by applicable law. Additionally, the use of Strata-Tac's name or logo or other proprietary marks or those of Strata-Tac's customers in any advertisement or other publication by Seller must be preapproved in writing by Strata-Tac.

11. REPRESENTATION AND WARRANTIES; COVENANTS:

Seller represents, warrants and covenants to Strata-Tac that:

(a) it has good title to all goods to be sold under the Purchase Order and that it has the unrestricted right to and shall convey good and marketable title free and clear of all liens, encumbrances and security interests;

(b) all products delivered or services performed by Seller will conform to the Purchase Order and any description, specification, or sample relating to such goods or services;

(c) all goods shall be merchantable and fit for the use intended by Strata-Tac;

(d) it shall produce and/or supply products as more fully described in the attached Purchase Order

and the products shall conform to all specifications described in the Purchase Order or in any related document;

(e) it shall use, and deliver products to, carriers specified by Strata-Tac and shall be responsible for all shipping and delivery arrangements and expenses unless otherwise specified in the Purchase Order; and

(f) all goods manufactured by Seller shall be manufactured in accordance with good quality workmanship and material and that all goods, and Seller, shall comply with and/or be sold, as the case may be, in accordance with all applicable federal, state and local laws, statutes, rules, ordinances and regulations and Seller shall furnish Strata-Tac with any certifications as may be required by such laws, statutes, rules, ordinances and regulations.

Seller agrees that the foregoing representations, warranties and covenants shall inure to the benefit of Strata-Tac, its successors, assigns, and customers, purchasers and users of its products. The foregoing representations, warranties and covenants shall survive any delivery, inspection, testing and/or acceptance for payment by Strata-Tac under the Purchase Order; and the termination of the Purchase Order for any reason for one (1) year from the date of delivery.

12. MISCELLANEOUS.

12.1 The Purchase Order may not be transferred or assigned in whole or in part by Seller without the prior written consent of Strata-Tac. Such consent shall not relieve Seller of its obligations and liabilities hereunder.

12.2 Except as otherwise provided, the Purchase Order may be modified or amended only by a writing of the party against whom enforcement is sought.

12.3 This instrument, together with the Purchase Order and all schedules, attachments and documents incorporated herein by reference, shall constitute the entire agreement between the parties. The failure of either party at any time to require performance by the other party of any provision of this agreement shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver of either party of a breach of any provision of this agreement constitute a waiver of any succeeding breach of the same or other provision.

12.4 Seller shall be solely responsible for filing the appropriate federal, state and local tax forms due with respect to Seller's receipt of any payments from Strata-Tac. Strata-Tac shall have no responsibility to pay or withhold from any payment to Seller, any federal, state or local taxes or fees.

12.5 The Purchase Order shall not create an exclusive agreement with Seller. Strata-Tac is free to engage others to provide products the same as or similar to Seller's and Seller is free to offer and provide Seller's products to others; provided however, that Seller does not breach any of the terms of the Purchase Order.

12.6 Seller shall comply fully with all applicable foreign, federal, regional, provincial, state and local laws, statutes, orders, rules, ordinances and regulations in the performance of its obligations under the Purchase Order, including, but not limited to, all applicable employment, tax and environmental laws.

12.7 The Purchase Order shall be governed by and construed in accordance with the laws of the State of Illinois. Any court action which may be brought by any party pertaining to the Purchase Order shall be brought in Illinois. The parties consent to personal jurisdiction and venue by state and federal courts in Illinois for any action pertaining to the Purchase Order by personal service of

process within or without the State of Illinois.

12.8 Any controversy or claim arising out of or relating to the Purchase Order or the breach hereof may be settled at Strata-Tac's sole discretion either by submitting the claim to (i) a court of competent jurisdiction or (ii) binding arbitration, before a single arbitrator, in the state and under the laws of the state of its choosing, in accordance with the commercial arbitration rules of the American Arbitration Association, and judgment upon the arbitrator's award may be entered in any court having jurisdiction. Pending resolution of settlement of any dispute arising under the Purchase Order, Seller will proceed diligently as directed by Strata-Tac with the performance of the Purchase Order.

12.9 Seller agrees that Strata-Tac shall have the right to set-off against any amounts which may become payable by Strata-Tac to Seller under the Purchase Order, any amounts which Seller may owe to Strata-Tac, whether arising under the Purchase Order or otherwise.

12.10 The invalidity or unenforceability of any provision contained herein shall not affect the validity or enforceability of any other provision hereof. Any invalid or unenforceable provision shall be deemed severed from the Purchase Order to the extent of its invalidity or unenforceability, and the Purchase Order shall be construed and enforced as if the Purchase Order did not contain that particular provision to the extent of its invalidity or