

STRAUSAK, INC.

TERMS AND CONDITIONS OF SALE

Version – January 2018

I. OFFER AND AGREEMENT:

No offer or contract shall be binding upon Strausak, Inc. (together with its affiliates, the "Seller") except by issuance of Seller's printed order confirmation. Acceptance by buyer (together with its successors and permitted assigns, the "Buyer") of the products (the "Products") or payment for same shall constitute unequivocal acceptance of the terms and conditions contained herein (the "Agreement"). None of any past practice, industry standards, course-of-dealing or usage of trade shall constitute a modification of any term or condition contained herein, nor shall same add any term not contained herein. No additional or different terms or conditions will be binding upon Seller unless specifically agreed to in a writing signed by an authorized representative of Seller. Failure of Seller to object to conditions contained in any other writing or other communication from Buyer shall not be construed as a waiver of this Agreement nor acceptance of any such other provisions. This Agreement also serves as notice of Seller's objection to and express rejection of any terms and conditions of purchase included in Buyer's order or other writing that are different from or additional to this Agreement. Article headings herein are for convenience only and are not to be considered in interpreting any of the provisions herein.

II. PRODUCTS:

Seller reserves the right to revise and discontinue Products at any time and without prior notice. Seller will ship Products that have the same or similar functionality and performance of Products ordered, but changes, including, but not limited to, changes with regard to measurements and weight, due to technical requirements between what is shipped and what is described in specification sheets, catalogs, or the like, are possible.

III. PRICES AND PAYMENT:

1. Products will be shipped from Seller's principal place of business or from any other location within North America, the quoted price is packed and FCA - Seller's principal place of business or the location of shipment, as applicable, unless otherwise agreed upon in writing. **2.** The quoted price of Products does not include duty, tariffs, taxes, freight costs or similar charges, which shall be borne by Buyer, unless otherwise agreed upon in writing. All prices are subject to change prior to Seller's issuance of an order confirmation. For all prices and Products, Seller reserves the right to make adjustments due to changing market conditions, Product discontinuation or other extenuating circumstances. **3.** Buyer shall be responsible for any insurance and shipping charges of shipments within North America of Products and Buyer shall reimburse Seller for any such charges paid by Seller, unless otherwise agreed upon in writing. **4.** Unless otherwise specified in Seller's order confirmation, the terms of payment of the total invoice price for Products ordered hereunder shall be payment of 30.00% of the total invoice price upon issuance of Seller's confirmation order, (b) 60.00% of the total invoice price on delivery to Buyer, and (c) and the remaining 10.00% due within thirty (30) days after installation. **5.** Overdue amounts shall bear a delinquency charge of interest at the lower of (a) five percent (5%) per annum; or (b) the maximum rate permitted by applicable law. **6.** Buyer shall have no right of set-off with alleged counter-claims. Any assignment of an order confirmation or Buyer's counter-claims to a third party without Seller's prior written consent shall be void. **7.** Buyer agrees to reimburse Seller for any

costs and expenses (including reasonable attorneys' fees or costs of collection agencies) in connection with the collection of any amounts owed to Seller under this Agreement.

IV. TAXES AND OTHER CHARGES:

Any tax, assessment, duty, custom or other fee of any nature imposed upon the Products, their sale, transportation, delivery, use or consumption imposed by any governmental authority, domestic or foreign, on or measured by the transaction between Seller and Buyer shall be paid by Buyer in addition to the price quoted or invoiced. In the event that Seller is required to pay any such tax, duty, fee or charge, Buyer shall reimburse Seller therefore unless otherwise agreed upon in writing. This Article IV shall survive the termination or expiration of this Agreement.

V. SUSPENSION AND CANCELLATION:

If Buyer shall omit delivery instructions or shall fail to accept Delivery (defined below), as required by this Agreement, or shall fail to make any payment when it becomes due or shall commit any other breach of contract, or if Buyer shall enter into any composition or arrangement with its creditors or if any distress or execution is levied upon any goods or property of Buyer, or if Buyer shall commit any act of bankruptcy or, if a corporation, a receiver shall be appointed of the whole or any part of its undertaking or assets or if Buyer shall pass a resolution for winding up or if a court shall make an order to that effect or if Buyer shall have a receiving order made against it, then, at Seller's sole option and discretion, Seller may defer or cancel any further deliveries or services and treat this Agreement or any other agreement between Seller and Buyer as terminated, but such termination shall be without prejudice to Seller's right to any unpaid price for Products delivered or cost of work done under this Agreement and to damages for loss suffered in consequence of such termination.

VI. DELIVERY AND RISK OF LOSS AND GOVERNMENTAL LICENSES:

1. Delivery of Products to a common carrier at Seller's principal place of business or at any other loading point, if so agreed to by the parties in writing, shall constitute delivery to Buyer ("Delivery"), and regardless of shipping terms or freight payment, all risk of loss or damage in transit shall upon Delivery, shift to Buyer. If Buyer is responsible for any shipment delay, Seller's written notification to Buyer that Products ordered hereunder are ready for shipping shall constitute Delivery to Buyer, and all further risk of loss or damage as well as all costs for handling, transportation and storage shall be borne by Buyer. **2.** Seller shall not be liable for any damages as a result of any delay or failure to deliver due to any cause beyond Seller's reasonable control, including without limitation, any act of God, act of Buyer, embargo or other governmental act, regulation or request, fire, accident, strike, slowdown, war, terrorism, riot, delay in transportation or inability to obtain necessary labor, materials or manufacturing facilities or delays in deliveries by sub-contractors or suppliers by any such circumstance as referred to above. Seller reserves the right from time to time to substitute a Product with a product that has the same function as such Product, or to delete a Product. Further, unless expressly agreed in writing by Seller, the estimated date of delivery shall never be regarded as a deadline. **3.** It is Buyer's sole responsibility to pay for and to obtain any governmental or other licenses, certificates or documentation as may be required.

VII. STORAGE:

If Products are not shipped within thirty (30) days after notification to the Buyer that they are ready for shipping, including the Buyer's failure to give shipping instructions, Seller may store such Products at the Buyer's sole risk in a warehouse or other storage facility or upon Seller's premises and the Buyer shall pay

all handling, transportation and storage costs at the prevailing commercial rates upon submission of invoices therefore.

VIII. LIMITED WARRANTY AND DISCLAIMER:

1. Seller's limited warranty and related disclaimer policy with respect to the Products is attached hereto as Appendix 1 and incorporated into this Agreement in its entirety. If no Appendix 1 is attached hereto, Seller's limited warranty and related disclaimer policy can be requested from Seller or accessed at: www.doc.strausak-swiss.ch. **2.** Any products distributed, but not manufactured by Seller, are not warranted by Seller and Buyer must instead rely on the representations and warranties, if any, provided directly to Buyer by the manufacturer of such product. **3.** Any Products which by agreement of the parties are of less than Seller's standard quality are sold "as is".

IX. LIMITATION OF LIABILITY:

1. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT OR ELSEWHERE TO THE CONTRARY, EXCEPT FOR DAMAGES FOR BODILY INJURY (INCLUDING DEATH), DAMAGE TO REAL PROPERTY OR TANGIBLE PERSONAL PROPERTY, AND THE INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT: **(a)** IN ANY ACTION UNDER OR RELATED TO THIS AGREEMENT, WHETHER ARISING IN CONTRACT, TORT, (INCLUDING NEGLIGENCE) OR OTHERWISE, NEITHER PARTY, OR ITS AFFILIATE, SHALL BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATE FOR ANY OF THE FOLLOWING EVEN IF INFORMED OF THEIR POSSIBILITY AND WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE: (i) THIRD PARTY CLAIMS FOR DAMAGES; (ii) LOSS OF, OR DAMAGE TO, DATA; (iii) SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES; OR (iv) LOSS OF PROFITS, BUSINESS, REVENUE, GOODWILL OR ANTICIPATED SAVINGS; AND **(b)** THE MAXIMUM CUMULATIVE LIABILITY OF EITHER PARTY AND ITS AFFILIATES TO THE OTHER PARTY AND ITS AFFILIATES FOR ALL ACTIONS ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE FORM OF THE ACTION OR THE THEORY OF RECOVERY, SHALL IN NO CASE EXCEED THE TOTAL PRICE PAID BY BUYER FOR THE PRODUCTS SOLD BY SELLER WHICH GIVES RISE TO THE CLAIM. **2.** If applicable, Buyer agrees to cause its customers and anybody in the chain of manufacturing supply and distribution including the end customer to be bound by limitations of liability substantially equal to those contained in this Agreement. **3.** This Article IX shall survive the termination or expiration of this Agreement.

X. SECURITY INTEREST:

Buyer hereby grants to Seller a security interest in Products sold hereunder together with the proceeds therefrom to secure payment of the purchase price of such Products and agrees, and appoints Seller its agent, to take all such action and to execute and file all such documents and instruments (including, but not limited to, UCC-1 financing statements) as may be necessary or reasonably requested by Seller to perfect and continue Seller's security interest hereunder.

XI. PROPRIETARY INFORMATION – CONFIDENTIALITY:

1. All specifications, and other information furnished by Seller are proprietary to Seller and confidential. Such information has been developed at substantial expense and contains trade secrets that are the exclusive property of Seller. Buyer may not reproduce or distribute such information except to such of Buyer's employees who are required to have such information in order to perform their duties and agree, in writing, to keep such information confidential. All such information supplied by Seller except for information that (a)

was generally available to the Buyer from public or published sources, provided publication did not take place in violation of this Agreement or through fault or omission of the Buyer, (b) was lawfully obtained from a source under no obligation of confidentiality, directly or indirectly, to either the Buyer or the Seller, or (c) was disclosed to the general public with the written approval of the Seller shall be received in confidence, and Buyer shall exercise due diligence and reasonable care to hold such information in confidence. **2.** This Article XI shall survive the termination or expiration of this Agreement.

XII. INSURANCE:

1. Seller is entitled to insure Products sold hereunder against damage or loss during (a) transportation; and (b) the time shipping is delayed for reasons beyond the reasonable control of the Seller, at the expense of Buyer, unless the parties have agreed otherwise. Seller, however, is not obligated to obtain insurance. **2.** Until final payment is made Buyer shall insure such Products at its expense for the benefit of Seller against damages and loss including, but not limited to, fire and flood, and shall give written proof thereof to Seller upon request.

XIII. PATENTS, COPYRIGHTS AND TRADEMARKS:

1. Seller assumes no liability as to any patent or copyright infringement by virtue of the use of Products in combination with other goods or services, or the use of Products manufactured to Buyer's specifications. **2.** Buyer shall not use Seller's trademarks without Seller's prior written consent.

XIV. INDEMNITY:

1. Buyer agrees to indemnify, defend and hold harmless Seller, its officers, directors, employees, agents and insurers of each of them, from and against any and all third party claims, demands, actions, damages, expenses, costs, claims, judgments and liabilities (including, without limitation, interest, penalties and reasonable attorneys' fees and investigative costs) incurred by Seller, arising from, in connection with or as a consequence of (a) any negligent, or wrongful act or omission by Buyer; (b) Buyer's transfer, use or sale of any Product, except to the extent that such suit or demand arises out of the failure of such Product to meet Seller's express warranties; and/or (c) Buyer's possession, operation, maintenance, delivery or return of Product. Such protection shall include, without limitation, claims for personal injury or death or property damage arising out of any act or omission of Buyer or its customers. **2.** This Article XIV shall survive the termination or expiration of this Agreement.

XV. REMEDIES FOR BREACH:

Buyer understands and agrees that the Seller will not have adequate remedy at law for the material breach or threatened breach by Buyer, or its, agents, employees, representatives or subcontractors, of any one or more of the covenants set forth in Articles XI and XIII, Section 2. of this Agreement. Buyer further agrees that in the event of any such material breach or threatened breach, the Seller may, in addition to (but not in substitution for) the other remedies which may be available to it either at law or in equity, file suit in the applicable court or courts in equity to enjoin the Buyer from the breach of or threatened breach of said covenants.

XVI. SEVERABILITY:

If at any time any one or more of the provisions of this Agreement become invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions of this Agreement shall not be in any way impaired.

XVII. GOVERNING LAW, JURISDICTION AND WAIVER OF JURY TRIAL:

This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, without giving effect to any choice or conflict of law provision or rule. Any legal suit, action or proceeding arising out of or based upon this Agreement or any of the other transaction documents, or any of the transactions contemplated hereby or thereby, must be instituted in the federal or state courts located in or servicing Lake County, Illinois. Each party submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Each party waives any defense of inconvenient forum to the maintenance of any suit, action or proceeding so brought. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND THEREFORE, EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

XVIII. COMPLETE AGREEMENT:

This Agreement and Seller's acceptance form constitute the complete and exclusive statement of the agreement between the parties hereto. It supersedes all prior written and oral statements, including prior representations, statements, conditions, or warranties.

APPENDIX 1

Limited Warranty and Disclaimer

Please see attached.