

## **Standard Terms and Conditions Agreement**

**Governing Terms:** All products and/or services (“Products and Services”) offered for sale by SemiTorr Group, Inc. (“Seller”) are sold subject to the terms and conditions stated in this Agreement (“Agreement”). This Agreement shall apply to the sale of the Products and Services described in the Seller’s Quotation, Sales Order, Invoice, or other contract documentation to which these terms and conditions of this Agreement are attached or incorporated by reference. Buyer’s acceptance of the Products and Services delivered by Seller shall constitute an affirmation by Buyer that the terms and conditions of the Agreement set forth herein govern the purchase and sale of the Products and Services. **THE TERMS OF THIS CONTRACT SHALL SUPERSEDE ANY ADDITIONAL, DIFFERENT OR CONFLICTING TERMS PROPOSED BY BUYER OR CONTAINED IN ANY DOCUMENT OR INSTRUMENT, INCLUDING BUT NOT LIMITED TO PURCHASE ORDERS, CREDIT APPLICATIONS, AND/OR OTHER BUYER OR SELLER AGREEMENTS.**

**Prices and Payment:** All prices are firm unless otherwise agreed to in writing. Seller reserves the right to change prices and specifications of its products at any time without notice to the Buyer of the Products and Services (Seller and Buyer referred to collectively herein as “Party” or “Parties”). Payment terms are net 30 days from date of invoice (the date of issuance of the invoice) or such other terms as are agreed between Buyer and Seller in writing. Terms on orders placed by a Buyer not operating as a United States entity shall be prepay by wire or such other terms as are agreed between Buyer and Seller in writing. Any amount not paid when due shall bear interest from the due date until paid in full at the rate of 1.5% per month, or the maximum amount allowed by law. Seller may require, in advance of shipment, full or partial payment or payment guarantee, whenever, in its opinion, the financial condition of Buyer so warrants. In the event of Buyer’s bankruptcy or insolvency, or in the event any proceeding is brought against Buyer, voluntary or involuntarily, under the bankruptcy laws, Seller may cancel any order then outstanding at any time during the period allowed for filing claims against the Buyer, and shall be paid the cancellation charges as set forth in this Agreement.

**NO WARRANTY.** SELLER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, RELATED TO CONFIDENTIAL INFORMATION, DELIVERABLES, OR SERVICES PROVIDED BY SELLER UNDER THIS AGREEMENT. SELLER SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY; FITNESS FOR PARTICULAR PURPOSE AND NON-INFRINGEMENT.

**LIMITATION OF LIABILITY:** IN NO EVENT SHALL SELLER (INCLUDING ITS AFFILIATES AND SUBSIDIARIES) BE LIABLE FOR ANTICIPATED AND/OR LOST

PROFITS AND/OR FOR ANY SPECIAL, PUNITIVE, INDIRECT, INCIDENTAL, AND/OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY, EVEN IF THE SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SELLER'S TOTAL LIABILITY ON ANY CLAIM OF ANY KIND FOR ANY LOSS OR DAMAGE WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH OR RESULTING FROM THIS CONTRACT OR FROM THE PERFORMANCE OR BREACH THEREOF SHALL IN NO CASE EXCEED THE PRICE ALLOCABLE TO THE PRODUCTS AND SERVICES OR PORTION THEREOF, WHICH GIVES RISE TO THE CLAIM.

**Returns:** Prior to returning any Products to Seller, the Buyer shall first prepare and submit for a request for return which indicates the reason for return and includes a list of the Products showing part number and quantity. If Seller determines that Products qualify for return, a Return Material Authorization number ("RMA") for the Products will be issued. If the return is not completed within thirty (30) days following the date of issuance of the RMA number, the RMA will become void and no return will be permitted. All Products submitted for return must be received by Seller in resalable condition, unused, and in the original packaging. A packing list showing part numbers, quantities, and the RMA number must accompany any returned Products. If all of the above criteria are met, then a credit memo will be issued to Buyer for Products submitted for return. Seller may, in its sole discretion, charge a restocking fee of an amount determined to be reasonable by Seller for any Product returned by Buyer.

**Cancellation:** Buyer may not cancel, reschedule, and/or amend any order after submission, or any portion thereof, except upon prior written agreement between Seller and Buyer, and upon payment to Seller of the cancellation charges as specified below. Please note, notwithstanding anything herein, Buyer may not cancel any order, or portion thereof, under any circumstances after shipment. Buyer acknowledges that such charges have been agreed upon, not as a penalty, but as a result of the difficulty of computing actual damages and the inconvenience and non-feasibility of Seller otherwise obtaining an adequate remedy. Such cancellation charges are as follows.

- 1) **Cancellation notice received 60 days or more prior to scheduled delivery will warrant a 20% cancellation charge.**
- 2) **Cancellation notice received less than 60 days prior to scheduled delivery will warrant a 30% cancellation charge.**

**Default:** In the event that either Party defaults in performing any covenant hereof, the non-defaulting Party shall deliver to the defaulting Party a dated "notice of default," specifying the default and requesting the correction thereof. If the event it is not corrected within ten (10) days after receipt of said notice, the non-defaulting Party

shall have all remedies at law and in equity for said default. In addition to any other remedy for default provided for herein or at Oregon law. Seller shall have the right, but not the obligation to suspend or terminate its work(s) and/or delivery obligations, to retain all deposits then held and to peacefully repossess all materials previously delivered or installed, for which payment has not been made in full, and terminate this agreement.

**Taxes:** Prices are exclusive of all federal, state, or local property, license privilege, sales, use, excise, and other taxes and government fees, which may now or hereafter be applicable to, measured by, or imposed upon or with respect to the transaction, the Products and Services furnished under the Sales Order, their sale, value or use, and Buyer shall be responsible for all such taxes and charges in addition to the price of the goods and/or services and shall reimburse Seller when such tax is payable by Seller, unless evidence of tax exemption acceptable to the taxing authorities is furnished by Buyer.

**Cartage:** Buyer shall be responsible for all shipping costs unless otherwise agreed upon by Buyer and Seller. The seller may at its discretion add packaging and handling costs to the sale. All material shall be shipped FOB Origin unless otherwise specified by Seller. Seller will make every effort to ship the Products and Services hereunder in accordance with the requested delivery date, provided that Seller accepts no liability for any losses or for general, special or consequential damages arising out of delays in delivery.

**Assignment:** This agreement granted herein is assignable by Seller.

**Force Majeure:** In the event the completion of work or the delivery of the Products and Services is prevented or delayed due to damage or destruction of the building, fire, accident, vandalism, earth movement, hurricane, tornado, windstorm, theft, labor strikes, warfare, material shortage, delay of any governmental agency in issuing any required permit or certificate, or in performing inspections, litigation, or any act of God, then the delivery of the Products and Services shall be delayed until a later date and Seller and Buyer shall sign a change order reflecting the same. If Buyer declines to sign the change order then this Agreement may be terminated by Seller where upon all sums then due to Seller for the Products and Services to be delivered on said order shall be immediately due and payable to Seller.

**Effective date of this agreement:** This Agreement becomes effective on the date of the Sales Order by Seller.

**Governing law, venue, waiver of the jury trial and attorney fees:** This

Agreement is to be governed by the law of the State of Oregon. Venue for any action (other than a lien foreclosure) may at Seller's option lie in the county of Washington, Oregon. The Parties intentionally waive the right of a jury trial, in any litigation arising under this Agreement; the non-prevailing Party shall compensate the prevailing Party all reasonable attorney's fees and costs.

**Entire Agreement:** This Agreement and all written agreements duly signed and executed by both Parties constitute the entire agreement between the Parties and supersedes any previous oral or written agreement or agreements between the Parties hereto, pertaining to the subject matter contained herein.

**Severability:** In the event any of the provisions of this Agreement shall be held to be invalid by any court of competent jurisdiction, the same shall be deemed severable, and as never having been contained herein, and this Agreement shall then be construed and enforced in accordance with the remaining provisions hereof.