

# TERMS AND CONDITIONS OF SALE

**STRYTEN ENERGY, LLC A DELAWARE LIMITED LIABILITY COMPANY ("STRYTEN")**

## TERMS AND CONDITIONS

All prices are quoted and all orders are accepted and all sales are expressly made conditional on Purchaser's assent to these terms and conditions and any additional or special terms and conditions included in STRYTEN's written quotations or acknowledgements, notwithstanding any purchase orders or offers to purchase by Purchaser containing different or additional provisions. Purchaser's acceptance of the goods shall, in any event, constitute acceptance of these terms and conditions, and Purchaser's agreement of STRYTEN's control over any terms, correspondence or forms supplied by Purchaser at any stage of the transaction. The prices quoted by STRYTEN are subject to change as set forth below. STRYTEN reserves the right to revoke this offer at any time before acceptance. This offer is not a firm offer. Unless sooner revoked, this offer shall expire on the expiration date set forth herein. This offer and the contract created by the Buyer's acceptance hereof are subject to all of the terms and conditions including those limiting warranties and liability and providing for price change.

1. All quotations are based upon acceptance of the terms set forth herein and based upon and governed by STRYTEN's interpretations of plans and specifications and are subject to change based upon changes in regulations issued by any governmental agency or any other governmental order. Materials other than those listed are not included.

2. Oral quotations terminate on the day made. Written quotations terminate thirty (30) calendar days after date of issuance unless stated differently on the face of this document. All quotations, including but not limited to price information published in catalogs, bulletins or price lists, are subject to revision prior to STRYTEN's acceptance of the order. All orders that are accepted must be shipped within 180 days of acceptance. If shipment is scheduled for more than 180 days after the date of acceptance, such orders are subject to changes within STRYTEN's sole discretion, including but not limited to price changes. In the event you do not agree to the changes, you may cancel the order prior to shipment.

3. After STRYTEN's acceptance of an order, Purchaser's modifications shall not be effective unless accepted by STRYTEN in writing. Acceptance may be conditioned upon Purchaser's acceptance of intervening price changes and price changes related to such modifications.

4. Prices include the cost of STRYTEN's standard domestic packing only. Any deviation from this standard packing, including U.S. Government sealed packing, necessitates extra charges. A description of such standard packing and extra charges will be furnished by STRYTEN at Purchaser's request. Any freight charges shown on this invoice may be subject to allowance or rebate.

5. Cash discounts are not applicable to notes or trade acceptance, or to any charges to be borne by Purchaser and not included in the price of goods sold, notwithstanding that such charges are added to STRYTEN's invoices.

6. Shipments and deliveries hereunder shall at all times be subject to STRYTEN's credit approval. If Purchaser or Lessee shall fail to make any payments when due, STRYTEN, in addition to other rights

and remedies, may, at its option, defer shipments or deliveries except upon receipt of satisfactory security or cash before shipment. Purchaser grants STRYTEN a first priority security interest in the products sold direct or under consignment hereunder and proceeds thereof, to secure payment of all Purchaser's obligations to STRYTEN. Purchaser agrees to sign a related Security Agreement and sign financing statements and renewals thereof as requested by STRYTEN for filing at proper government agencies. If products are sold under consignment, Purchaser agrees to sign STRYTEN's Consignment Agreement.

7. The amount of any present or future sales, use, excise, or similar taxes, applicable to the ordered Products shall be added to STRYTEN's price and paid by the Purchaser, unless Purchaser timely provides STRYTEN with a tax exemption certificate acceptable to STRYTEN.

8. STRYTEN reserves the right to change or modify at any time, any product or any materials used in the fabrication of products, or to discontinue the manufacture of any product, without any liability with respect thereto.

9. All orders are subject to, and shall be effective only upon, written acceptance by a duly authorized representative of STRYTEN or upon delivery of the goods.

10. STRYTEN will accept an order only after it receives complete and final information covering price plans, specifications, delivery requirements and any information necessary to fill the order. It is Purchaser's responsibility to supply all such information in writing.

11. Telephone orders are accepted at Purchaser's risk as shipments made before receipt of confirmation are for Purchaser's convenience. To avoid duplication, all confirming orders must be clearly marked "Confirmation". Confirmation orders not so marked can be treated as original orders at the Purchaser's expense and inconvenience.

12. Orders for equipment to be leased shall not be binding until STRYTEN receives a lease signed by an authorized representative for both Purchaser Lessee and STRYTEN. This lease shall constitute the entire binding agreement between the parties.

13. After acceptance, an order cannot be cancelled by Purchaser or Lessee without STRYTEN's written consent and then only upon terms that will compensate STRYTEN for lost profits and all costs and expenses (including any engineering and fabrication charges) applicable to the cancelled order.

14. Shipments which are delayed at Purchaser's request or by Purchaser's delay in supplying information necessary for shipment or the execution of the order may be invoiced and dated the day STRYTEN is prepared to ship. Additional charges for warehousing, trucking, and other incidental expenses created by the delay may be imposed.

15. STRYTEN reserves the right to make partial deliveries.

16. Pro-rata payments become due as shipments are made.

17. Shipping weights specified in STRYTEN's literature and catalogs are estimated, not guaranteed. STRYTEN assumes no responsibility for tariff classifications of carriers.

18. Delivery information and schedules are approximate and not guaranteed. Delivery means time of delivery to carrier. Delay by Purchaser in supplying specifications, custom parts and other information necessary for execution of the order or delay at Purchaser's request shall extend delivery schedules for a reasonable time. STRYTEN will not accept any liability or pay any penalty or damages, liquidated or otherwise, for shipment or installations which are delayed by Purchaser or by any reason whatsoever.

19. STRYTEN shall not be liable for any loss or damage caused by factors beyond its control including (without limitation) changes in government regulations, acts of God, Purchaser's acts or omissions, fires, strikes or other combined action of workmen, floods, earthquakes, serious accidents, epidemics, quarantines, wars, insurrections or riots, acts of civil or military authorities, transportation embargoes or interruptions, shortages, wrecks, severe weather, labor shortages, deliveries of components and materials and delays by STRYTEN's suppliers. STRYTEN may, in its sole discretion, allocate available merchandise among customers as it may determine or cancel orders without liability for any part thereof, not shipped to the Purchaser upon refunding any allocable advance payments received in respect of the cancelled portion.

20. Goods are shipped F.O.B. shipping point. When goods have been delivered to a carrier for shipment, the risk of loss passes to Purchaser and STRYTEN's responsibility for delivery ends; but STRYTEN agrees to furnish duplicate bills of lading and otherwise render reasonable assistance in making claims for damages against the carrier. Shipment must be examined carefully by Purchaser before being accepted from the carrier.

21. STRYTEN assumes no responsibility for damage after having received "in good order" receipts from a carrier at shipping point and all loss, damage and delay in transit are at the risk of the Purchaser.

22. Merchandise damaged with container intact require the filing of a fully completed "Concealed Damage Report" by the Purchaser with the carrier and, in any event, the sending of a copy thereof to STRYTEN within 24 hours after the receipt of shipment by Purchaser.

23. Claims for shortages or non-conforming shipments must be made in writing and received by STRYTEN immediately upon Purchaser's receipt of the shipment. Failure to give such notice shall be deemed unqualified acceptance and a waiver by the Purchaser of any claim with respect to the shipment.

24. If the financial condition of the Purchaser is not satisfactory to STRYTEN at the time shipment is ready or at any other time, STRYTEN may cancel the order or require full or partial payment in advance of shipment.

25. STRYTEN will not accept merchandise for return or credit other than for claimed warranty, unless its permission has been first obtained and Purchaser receives a Returned Goods

Authorization form issued by a duly authorized representative of STRYTEN. Any Customer requested return must be within sixty (60) days of the Order Ship Date. The Purchaser retains the risk of loss and will reimburse STRYTEN for any costs it incurs in connection with the shipment and return of the merchandise including, but not limited to, a minimum 20 percent handling, examination and repacking charge. Merchandise fabricated to order is not returnable under any circumstances except for approved warranty claim.

26. Interest at the maximum legal rate established from time to time, or eighteen percent (18%), whichever is lower, may be charged on overdue accounts after notification by STRYTEN in writing, and such amount will be charged from the date the account became overdue regardless of the date of notification.

27. If the invoice is not paid when due, or it becomes necessary to enforce these terms and conditions, Purchaser agrees to pay all costs of the collection and enforcement, including attorney's fees, whether incurred in or out of court, in appeal, arbitration, bankruptcy court or in any insolvency proceedings.

28. Stenographic, clerical, or other errors are subject to correction.

29. STRYTEN assumes no liability arising from penalty or liquidated damage clauses of any kind, written or implied, unless specifically approved in writing by its duly authorized representative.

30. STRYTEN warrants all merchandise manufactured and sold by it in accordance with the written warranty policy for that product which shall be available to the Purchaser upon request. Any remedy as described in the written warranty shall be Purchaser's sole remedy for any defect.

31. STRYTEN MAKES NO WARRANTY OTHER THAN THE LIMITED WARRANTY REFERRED TO HEREIN. THIS LIMITED WARRANTY IS EXPRESSLY IN LIEU OF ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND IT CONSTITUTES THE ONLY WARRANTY MADE WITH RESPECT TO THE GOODS COVERED BY THESE TERMS AND CONDITIONS. IN NO EVENT SHALL STRYTEN BE LIABLE FOR ANY DIRECT INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGES. If any sample or model was shown in connection with this sale, such sample or model was merely to illustrate the general type and quality of goods, shall not be a part of the basis of the bargain, shall not be relied on by Purchaser, and is not to be construed as a representation or warranty that the goods will necessarily be of that type or quality. No affirmation of fact, description or promise made by STRYTEN by words, pictures, drawings, action, course of performance, course of dealing or usage of trade shall constitute a warranty that the goods will conform to such affirmation description or promise, shall not be a part of the basis of the bargain and shall not be relied upon by Purchaser.

32. In the event the goods described herein fail to conform to the limited warranty referred to herein, Purchaser must give STRYTEN written notice of such nonconformance within thirty (30) days of receipt of the goods or Purchaser waives any rights with respect to this sale. Within a reasonable time after written notice and confirmation of such nonconformance, STRYTEN will replace the defective goods or in STRYTEN's sole discretion, will refund the purchase price of each portion of

the goods as are rendered unusable as a result of such defect. Purchaser agrees that this is the sole and exclusive remedy of the Purchaser with respect to this sale. STRYTEN's sole liability on any claim arising out of this sale or its repair or replacement of defective goods, whether in contract, warranty tort to otherwise, shall be limited to the purchase price of the goods that prove defective. In no event shall STRYTEN be liable for, and Purchaser shall hold STRYTEN harmless from, any damages, direct, indirect or consequential, whether resulting from STRYTEN's negligence or otherwise, arising out of, in connection with, or resulting from the goods sold herein, and any and all claims, actions, suits and proceedings which may be instituted in respect to the foregoing, including those made by subsequent owners and users of the goods. In the event the remedies provided by this contract fail of their essential purpose. STRYTEN's liability will nonetheless be limited to the refund of whatever portion of the purchase price that has been paid.

33. All the terms and conditions set out herein shall be binding upon Purchaser and all subsequent owners and users of these goods. Without limitation of the foregoing however, the goods identified herein are sold subject to the condition that they shall not, nor any portion of them, by way of trade or otherwise, be lent, resold, or otherwise conveyed without similar conditions including this condition, being imposed on the subsequent borrower, purchaser or transferee.

34. Purchaser is solely responsible for compliance with all applicable government requirements. Purchaser shall inform STRYTEN in writing of any requirements applicable to the products and/or materials ordered and STRYTEN shall not be responsible for any failure to comply with requirements not so communicated.

35. All orders are accepted, and all sales are made, subject to the terms and conditions set forth herein and this statement is intended as a final, complete, and exclusive statement of the Parties' agreement. No statements, representations, agreements, or changes of any kind or any conflicting terms or conditions incorporated in any writing by Purchaser to STRYTEN are binding on STRYTEN unless specifically agreed to in writing, and signed by its duly authorized representative. Any and all prior statements, representations and agreements not incorporated herein are excluded and superseded hereby. No course of prior dealings between STRYTEN and Purchaser, and no usage of trade shall be used to supplement any terms used in this agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement.

36. These terms and conditions shall not be modified or rescinded by agreement, conduct or waiver unless specifically agreed to in writing, and signed by STRYTEN's duly authorized representative.

37. The invalidity of all or a part of any of the terms and conditions set forth herein shall not invalidate the remainder of such terms and conditions.

38. These terms and conditions shall be construed and governed by the laws of the State of Georgia. Purchaser agrees that any action to collect an invoice or enforce these terms and conditions may be brought in a court of competent jurisdiction in Atlanta, Georgia.

39. IMPORTANT NOTICE: This is a domestic sale with US delivery terms. If customer intends to export this merchandise, customer is solely responsible for compliance with US Export Administration Regulations and Foreign Trade Statistics Regulations. STRYTEN MUST NOT BE LISTED AS THE EXPORTER OR U.S. PRINCIPAL PARTY IN INTEREST ON ANY SHIPPER'S EXPORT DECLARATION.

