

PURCHASE ORDER TERMS AND CONDITIONS

1. Definitions. As used herein: “**Buyer**” means the person or organization purchasing the Goods and Services, identified as the buyer on the Face Page; “**Goods**” means the items of movable personal property (including those specially manufactured), identified as goods on the Face Page; “**Face**” and “**Face Page**” means the first page of this Purchase Order and any subsequent page(s) needed to fill in the required information, up to and including the Parties’ signatures; “**Parties**” means the Buyer and Seller; “**Purchase Order**” and “**PO**” means the Face Page of this Purchase Order together with all documents attached or incorporated therein by reference, including these Standard Terms and Conditions; “**Seller**” means the person or organization providing the Goods and Services, identified as the seller on the Face Page; and “**Services**” means the ancillary personal services to be provided with the Goods, described on the Face Page.

2. Purchase Order. This Purchase Order is an offer by the Buyer to purchase the Goods and Services specified herein from the Seller, on the terms and conditions contained herein. Upon acceptance, Seller agrees to provide the Goods and Services to Buyer in accordance with the terms of the Purchase Order.

3. Acceptance; Conditions. The offer contained in this Purchase Order is conditioned on Seller’s acceptance of all, and only, the terms and conditions contained herein. Buyer rejects any different, conflicting, or additional term(s) contained in any other document, writing, or electronic medium, including without limitation, on a website, on an invoice, or other document issued by Seller in connection with this Purchase Order, or in communications between the Parties, except as otherwise provided herein. This Purchase Order will be deemed accepted by the Seller upon the first of the following to occur: (a) Seller making, signing, or delivering to Buyer any letter, form, or other writing or instrument acknowledging acceptance; (b) any performance by Seller under the terms of the Purchase Order; or (c) the expiration of ten (10) days after Seller’s receipt of the Purchase Order unless Seller sends written notice of rejection to Buyer prior to the expiration of such period.

4. Delivery. Seller shall deliver the Goods and perform the Services at the delivery location specified in this Purchase Order (the “**Deliver Location**”), on or before the date specified in this Purchase Order (the “**Delivery Date**”). Seller will coordinate with Buyer not less than five (5) business days in advance of the Delivery Date so that Buyer can have the required personnel and equipment on-site to receive and store any Goods to be delivered. **TIME IS OF THE ESSENCE.** If Seller fails to deliver the Goods or Services in full on or before the Delivery Date, Buyer may, at its sole option: (a) terminate the Purchase Order immediately and Seller shall indemnify Buyer against any losses, damages, and reasonable costs and expenses attributable to Seller’s failure to deliver; or (b) assess liquidated damages at the rate of 1.5% of the total Purchase Order Price, per day, until Seller delivers in full.

5. Inspection. Buyer reserves the right to inspect the Goods before payment or acceptance at any reasonable place and time and in any reasonable manner, including during fabrication, upon delivery or

within a reasonable time after the Delivery Date. Buyer, at its sole option, may reject all or any portion of the Goods that are defective or nonconforming. If Buyer requests replacement of the Goods pursuant to Section 6, Seller shall promptly replace the nonconforming Goods at no additional cost to the Buyer. If Seller fails to deliver replacement Goods within five (5) business days of Buyer’s request, Buyer may replace them with goods from a third party and charge Seller the cost thereof and terminate this Purchase Order for cause pursuant to Section 10. Any inspection or other action by Buyer under this Section 5 shall not affect Seller’s obligations under the Purchase Order, and Buyer shall have the right to further inspection after Seller takes remedial action.

6. Cumulative Remedies. The rights and remedies under this Purchase Order are cumulative and are in addition to any other rights and remedies provided by law, equity or otherwise. If Seller is in breach of the warranties set out in Section 11, Seller will, at its sole cost, replace or repair the Goods or re-perform Services to Buyer’s reasonable satisfaction.

7. Price and Payment. This Purchase Order is for a fixed price. The total price of all Goods and Services covered by this Purchase Order (the “**Price**”) is the amount identified as the total price stated on the Face of this Purchase Order. The Price will be paid within the time period specified on the Face of this Purchase Order. If no period is specified, the Price will be paid within thirty (30) days. The time for payment will begin to run on receipt of Seller’s invoice in accordance with this Section 7. To ensure timely payment, invoices must be submitted electronically to Accounting@StoneSEng.com and reference the applicable contract or PO number. Seller should also copy its regular point of contact (with Buyer) to ensure timely processing. Buyer shall have no liability for payment delays attributable to invoice submission by any other method.

8. Hazardous Waste. If Seller generates any hazardous waste on Buyer’s property or site, as defined in 40 C.F.R. §261.3, Seller will immediately notify Buyer and comply with Buyer’s policies and practices, and all applicable laws, ordinances, rules, regulations and codes, pertaining to the management of hazardous waste.

9. Change Orders. Buyer may, from time to time, initiate changes by issuing to Seller written notices (each, a “**Change Order**”) that alter, add to, or deduct from the Goods or Services, but that are otherwise subject to the terms of this Purchase Order. Seller will promptly comply with the terms of any Change Order. Seller must notify Buyer if any Change Order will result in a Price increase, prior to initiating the change. Buyer shall have no obligation to adjust the Price if Seller fails to notify Buyer of an increase prior to initiating the Change Order. All changes must be approved by Buyer, in writing, prior to implementation. Any changes or deviations not approved in writing by Buyer will be corrected at no additional expense to Buyer and within the same schedule as noted in this Purchase Order.

10. Termination. Buyer may terminate this Purchase Order, in whole or in part, for any reason, with or without cause, upon thirty (30) days’ written notice to Seller. Buyer may terminate this Purchase



Order for cause, upon written notice to the Seller either before or after acceptance of Goods or Services, if: (a) Seller has breached a material term or condition of the Purchase Order; or (b) Seller becomes insolvent, or commences or has commenced against it, bankruptcy proceedings, receivership, reorganization or makes an assignment for the benefit of creditors. In the event Buyer terminates the Purchase Order for any reason, Seller's sole and exclusive remedy is payment for the Goods or Services received and accepted by Buyer prior to the effective date of termination.

11. Warranties.

(a) Goods. Seller represents and warrants that all Goods furnished under this Purchase Order will: (i) be manufactured from new materials and free from material defects in workmanship and material; (ii) be fabricated in strict accordance with the applicable product specifications and approved shop drawings; (iii) be fit for their intended purpose and operate as intended; and (iv) upon payment of all amounts due to Seller, be free and clear of all liens, security interests or other encumbrances.

(b) Services. Seller represents and warrants that all Services furnished under this Purchase Order will be performed: (i) by qualified personnel; (ii) in a professional and workmanlike manner; (iii) in strict accordance with the terms of this Purchase Order; and (iv) in accordance with the standards generally observed in the Seller's industry.

The foregoing warranties shall survive for one (1) year after acceptance and payment. These warranties are cumulative and in addition to any other warranty provided by law, equity or otherwise. Any applicable statute of limitations shall begin to run from the date of Buyer's discovery of the noncompliance. If Buyer gives Seller notice of noncompliance, Seller shall, at its own cost and expense, promptly replace or repair the nonconforming Goods or Services.

12. Indemnification. Seller will release, indemnify, defend, and hold the Buyer, its officers, directors, employees, and/or shareholders, harmless from and against any and all damages (whether ordinary, direct, indirect, incidental, special, consequential, or exemplary), judgments, liabilities, fines, penalties, losses, claims, actions, demands, lawsuits, costs, and expenses including, without limitation, reasonable attorneys' fees (collectively "Claims"), which arise out of or relate to (i) any material breach of this Purchase Order or of the representations or warranties contained herein by the Seller, or its employees or agents, (including, but not limited to, any breach its confidentiality obligations hereunder) or (ii) acts or omissions of negligence, willful misconduct, or fraud of the Seller or its employees or agents. Seller's obligations under this Section 12 shall survive for three (3) years after the expiration or termination of this Purchase Order for any reason.

13. Confidential Information. Seller may require and be given access to certain Confidential Information of the Buyer to fulfill some or all of its obligations under the Purchase Order. "Confidential Information" shall mean all information of Buyer not generally available to the public which is provided to the Seller by Buyer or which Seller has access to or discovers in the performance of this Purchase Order, including without limitation, all information relating

to Buyer's products, business and operations, including business plans, financial records, customers, suppliers, vendors, products, costs, sources, strategies, inventions, procedures, forecasts, sales materials and data, technical advice or knowledge, contractual agreements, pricing, product specifications, trade secrets, procedures, distribution methods, inventories, marketing strategies, algorithms, specifications, samples, patterns, plans, drawings, documents, data designs, work sheets, blueprints, manufacturing processes, computer programs and systems and know-how or other intellectual property of Buyer and its affiliates that may be at any time furnished, communicated or delivered by Buyer to Seller, whether in oral, tangible, electronic or other form. Seller shall protect Buyer's Confidential Information by using the same degree of care that it uses to protect its own information of a like nature, but no less than a reasonable degree of care. Seller shall only use Confidential Information to perform its obligations under this Purchase Order and shall only disclose Confidential Information to its employees who need to know such information for Seller to perform its obligations under this Purchase Order. All Confidential Information shall remain the property of the Buyer and shall be returned upon Buyer's request. Confidential Information shall not include any information that: (a) was rightfully known to Seller prior to disclosure by Buyer; (b) is rightfully obtained by Seller from a third party; (c) is made available by the Buyer to the public without restrictions; (d) is disclosed with prior written permission of the Buyer; or (e) is independently developed or learned by the Seller. Seller's obligations under this Section 13 shall survive the expiration or termination of this Purchase Order for any reason.

14. Insurance. Seller shall obtain and maintain the following insurance, at its sole cost and expense: (a) commercial general liability insurance (including product liability) with limits not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; (b) statutory workers' compensation insurance ; and (c) if Seller's obligations under the Purchase Order involve the use of motor vehicles, commercial automobile liability insurance with limits not less than \$1,000,000 each occurrence for bodily injury, death, and property damage, including owned and non-owned and hired automobile coverages. Seller shall provide Buyer with certificates of insurance evidencing the above coverage upon request.

15. Compliance with Law. Seller and all persons acting for or on its behalf ("Representatives") shall comply at its own expense with all applicable laws, ordinances, rules, regulations and codes applicable to the performance of Seller's obligations under this Purchase Order, including without limitation, the U.S. Mine Safety and Health Act, Occupational Safety and Health Act, Toxic Substances Control Act, Foreign Corrupt Practices Act, and import/export control laws and regulations. To the extent Seller must enter on Buyer's site to perform under this Purchase Order, Seller will ensure that its Representatives comply with Buyer's health, safety and environmental policies and standards. Seller will identify and procure, at its own expense, all required permits, certificates, licenses, insurance, approvals, and inspections applicable to the performance of its obligations under this Purchase Order. Seller will indemnify Buyer (pursuant to Section 12) for any and all Claims against Buyer that arise from Seller's breach of this Section 15.



16. Shipping Terms. The Purchase Order number must appear on all documents pertaining to the Purchase Order, including invoices, packing lists, correspondence, and all shipping documents. Seller shall not substitute material or ship more than the quantity ordered. Seller shall deliver the Goods to the Delivery Location. Seller shall be solely responsible for all costs of delivering the Goods to the Delivery Location, including without limitation, all loading, shipping and freight costs (“**Shipping Costs**”), and all duties, fees, tariffs or similar analogous taxes on imports/exports of the Goods (“**Customs Duties**”). Seller will take all reasonable steps to minimize Shipping Costs and Customs Duties.

17. Taxes. The Price includes and Seller shall be solely responsible for and pay, all federal, state, and local taxes, including, but not limited to, value added tax, goods and services tax, sales, use or consumption tax. No sales or use tax shall be added when a valid tax exemption is indicated on the Face of this Purchase Order by the Buyer. Seller will indemnify Buyer (pursuant to Section 12) for any and all Claims against Buyer that arise from Seller’s breach of this Section 17.

18. Title and Risk of Loss. Unless otherwise specified in the Purchase Order, risk of loss of the Goods remains with Seller and title will not pass to Buyer until the Goods are delivered to and accepted by Buyer at the Delivery Location.

19. Force Majeure. Neither party shall be liable to the other for any delay or failure in performing its obligations under the Purchase Order to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, without such party’s fault or negligence, and which by its nature could not have been foreseen by such party (“**Force Majeure Event**”). Force Majeure Events include, but are not limited to, acts of God or the public enemy, government restrictions, floods, fire, earthquakes, explosion, pandemic, epidemic, war, invasion, terrorist acts, riots, strike, or embargoes. Seller’s economic hardship or changes in market conditions are not considered Force Majeure Events. Seller shall use all diligent efforts to end the failure or delay of its performance, ensure that the effects of any Force Majeure Event are minimized and resume performance under the Purchase Order. If a Force Majeure Event prevents Seller from performance for a continuous period of more than fifteen (15) business days, Buyer may terminate this Purchase Order immediately by giving written notice to Seller.

20. Waiver and Release of Liens. To the extent of Buyer’s payment of amounts due and payable to Seller under this Purchase Order, Seller waives, releases and relinquishes all liens, claims and security interests, statutory or otherwise, that Seller has or may have in the Goods or as a result of Services performed under the Purchase Order (collectively “**Liens**”). Seller, at its sole cost and expense, will promptly execute and file all documents and take all other action necessary to cancel or remove such Liens of record, to the extent waived or released pursuant to this Section 20.

21. Relationship of the Parties. The Seller is an independent contractor of Buyer. Nothing contained herein shall be construed as creating any agency, partnership, employment or other relationship between the Parties except an independent contractor relationship.

Neither party shall have authority to bind the other party in any manner whatsoever.

22. Governing Law and Venue. This Purchase Order will be interpreted and construed in accordance with the laws of the State of New York, without regard to its principles of conflicts of laws. The state or federal courts located in Sullivan County, New York shall have exclusive jurisdiction over any action or proceeding to construe or enforce any term of this Purchase Order or based on any right(s) arising out of, related to, or concerning the Purchase Order, and each party irrevocably submits to the personal jurisdiction of such courts.

23. Notices. All notices, consents, claims, demands, waivers and communications hereunder (each, a “**Notice**”) shall be in writing and addressed to the Parties at the addresses set forth on the Face of this Purchase Order or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (return receipt requested, postage prepaid). A Notice is effective only upon receipt of the receiving party, and if the party giving the Notice has complied with the requirements of this Section 23.

24. Conflicting Terms. In the event of a conflict, the terms appearing on the Face Page of this Purchase Order shall govern over the Standard Terms and Conditions and a Change Order or express written modification or amendment (pursuant to Section 30), shall govern over any conflicting term of the Purchase Order. The Purchase Order may not be contradicted, supplemented or explained by evidence of course of performance, course of dealing, or usage of trade.

25. Construction. Unless the context otherwise requires: (i) words of any gender include each other gender; (ii) words using the singular or plural number also include the plural or singular number, respectively; (iii) the term “hereof,” “herein,” “hereby” and similar or derivative words refer to this entire Agreement; (iv) the term “Section” refers to the specified Section of this Agreement; (v) the words “and” and “or” will be deemed to mean “and/or”; and (vi) the term “including” and similar or derivative words will be deemed to be followed by the words “without limitation.” References to a number of days means calendar days unless otherwise expressly specified. Headings are for reference purposes only and will not be deemed a part of this Purchase Order. Capitalized terms used herein and not otherwise defined have the meanings set forth in Section 1.

26. Services. To the extent this Purchase Order requires Seller to perform Services, Seller represents and warrants that it has the expertise, experience, capability and specialized knowledge to perform the Services in accordance with the warranties set forth in Section 11. Buyer reserves the right to visit Seller’s premises during business hours upon reasonable notice to Seller, to inspect Seller’s work-in-progress. Seller agrees to make itself and its Representatives reasonably available for such inspections as well as web-based or telephonic status meetings with Buyer on an as-needed basis. Buyer will furnish materials, equipment and machinery only if expressly stated in the Purchase Order. Seller will, at its sole cost and expense, repair or replace any real or personal property of Buyer that is



damaged, destroyed or removed by Seller or its Representatives during the course of Seller's performance under this Purchase Order.

27. Survival. Provisions of this Purchase Order which by their nature should apply beyond any termination of this Purchase Order will remain in effect for the period expressed within the Section.

28. Severability. If any term or provision of this Purchase Order is found invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term of this Purchase Order or invalidate or render unenforceable such term in any other jurisdiction.

29. Entire Agreement; Modification. This Purchase Order constitutes the sole and entire agreement of the Parties with respect to the matters contained herein and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations, warranties and communications between the Parties, both written and oral, with respect to the subject matter of the Purchase Order. No modification, alteration or amendment of the Purchase Order shall be binding unless agreed to in a writing signed by both Parties that expressly references modification or amendment of the Purchase Order.

30. Miscellaneous. Seller shall not assign, transfer, delegate or subcontract any of its rights or obligations under the Purchase Order without Buyer's prior written consent. Any purported assignment or delegation in violation of this Section 30 shall be null and void. No assignment shall relieve the Seller of any of its obligations hereunder. No waiver by any party of any of the provisions of the Purchase Order shall be effective unless explicitly set forth in writing and signed by the party so waiving. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from the Purchase Order by Buyer shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, or privilege hereunder preclude any other exercise of any additional right, remedy, or privilege.

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