

LAMAY PROPERTY DEVELOPMENT LLC
TERMS AND CONDITIONS FOR THE PURCHASE

1. Applicability.

(a) These terms and conditions of purchase (these "Terms") are the only terms which govern the purchase of the goods ("Goods") and services ("Services") by LaMay Property Development LLC ("LaMay Property Development") from the seller named on the Purchase Order ("Seller"). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods and Services covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.

(b) The accompanying purchase order (the "Purchase Order") and these Terms (collectively, this "Agreement") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Seller's general terms and conditions of sale regardless whether or when Seller has submitted its sales confirmation or such terms. This Agreement expressly limits Seller's acceptance to the terms of this Agreement. Fulfillment of this Purchase Order constitutes acceptance of these Terms.

2. Delivery of Goods and Performance of Services.

(a) Seller shall deliver the Goods in the quantities and on the date(s) specified in the Purchase Order or as otherwise agreed in writing by the parties (the "Delivery Date"). If no delivery date is specified, Seller shall deliver the Goods within 14 days of Seller's receipt of the Purchase Order. If Seller fails to deliver the Goods in full on the Delivery Date, LaMay Property Development may terminate this Agreement immediately by providing written notice to Seller and Seller shall indemnify LaMay Property Development against any losses, claims, damages, and reasonable costs and expenses directly attributable to Seller's failure to deliver the Goods on the Delivery Date. LaMay Property Development has the right to return any Goods delivered prior to the Delivery Date at Seller's expense and Seller shall redeliver such Goods on the Delivery Date.

(b) Seller shall deliver all Goods to the address specified in the Purchase Order (the "Delivery Point") during LaMay Property Development's normal business hours or as otherwise instructed by LaMay Property Development. Seller shall pack all goods for shipment according to LaMay Property Development's instructions or, if there are no instructions, in a manner sufficient to ensure that the Goods are delivered in undamaged condition. Seller must provide LaMay Property Development prior written notice if it requires LaMay Property Development to return any packaging material. Any return of such packaging material shall be made at Seller's risk of loss and expense.

(c) Seller shall provide the Services to LaMay Property Development as described and in accordance with the schedule set forth on the Purchase Order and in accordance with the terms and conditions set forth in these Terms.

(d) Seller acknowledges that time is of the essence with respect to Seller's obligations hereunder and the timely delivery of the Goods and Services, including all performance dates, timetables, project milestones and other requirements in this Agreement.

3. Quantity. If Seller delivers more than 5% or less than 95% the quantity of Goods ordered, LaMay Property Development may reject all or any excess Goods. Any such rejected Goods shall be returned to Seller at Seller's sole risk and expense. If LaMay Property Development does not reject the Goods and instead accepts the delivery of Goods at the increased or reduced quantity, the Price for the Goods shall be adjusted on a pro-rata basis.

4. Shipping Terms. Delivery shall be made FOB Delivery Point or in accordance with the terms on the face of this Agreement. The Purchase Order number must appear on all shipping documents, shipping labels, bills of lading, invoices, correspondence and any other documents pertaining to the Purchase Order.

5. Title and Risk of Loss. Title and risk of loss passes to LaMay Property Development upon delivery of the Goods at the Delivery Point.

6. Inspection and Rejection of Nonconforming Goods. LaMay Property Development has the right to inspect the Goods on or after the Delivery Date. LaMay Property Development, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are nonconforming or defective. If LaMay Property Development rejects any portion of the Goods, LaMay Property Development has the right, effective upon written notice to Seller, to: (a) rescind this Agreement in its entirety; (b) accept the Goods at a reasonably reduced price; or (c) reject the Goods and require replacement of the rejected Goods. If LaMay Property Development requires replacement of the Goods, Seller shall, at its expense, promptly replace the nonconforming or defective Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective goods and the delivery of replacement Goods. If Seller fails to timely deliver replacement Goods, LaMay Property Development may replace them with goods from a third party and charge Seller the cost thereof and terminate this Agreement for cause pursuant to Section 17. Any inspection or other action by LaMay Property Development under this Section shall not reduce or otherwise affect Seller's obligations under the Agreement, and LaMay Property Development shall have the right to conduct further inspections after Seller has carried out its remedial actions.

7. Price. The price of the Goods and Services is the price stated in the Purchase Order (the "Price"). If no price is included in the Purchase Order, the Price shall be the price set out in Seller's published price list in force as of the date of the Purchase Order. Unless otherwise specified in the Purchase Order, the Price includes all packaging, transportation costs to the Delivery Point, insurance, customs duties and fees and applicable taxes, including, but not limited to, all sales, use or excise taxes. No increase in the Price is effective, whether due to increased material, labor or transportation costs or otherwise, without the prior written consent of LaMay Property Development.

8. Payment Terms. Seller shall issue an invoice to LaMay Property Development on or any time after the completion of delivery and only in accordance with these Terms. LaMay Property Development shall pay all properly invoiced amounts due to Seller within 30 days after LaMay Property Development's receipt of such invoice, except for any amounts disputed by LaMay Property Development in good faith. All payments hereunder must be in US dollars. Without prejudice to any other right or remedy it may have, LaMay Property Development reserves the right to set off at any time any amount owing to it by Seller against any amount payable by LaMay Property Development to Seller.

9. Seller's Obligations Regarding Services. Seller shall:

(a) before the date on which the Services are to start, obtain, and at all times during the term of this Agreement, maintain, all necessary licenses and consents and comply with all relevant laws applicable to the provision of the Services;

(b) comply with all rules, regulations and policies of LaMay Property Development, including security procedures concerning security procedures and general health and safety practices and procedures;

(c) maintain complete and accurate records relating to the provision of the Services under this Agreement, including records of the time spent and materials used by Seller in providing the Services in such form as LaMay Property Development shall approve. During the term of this Agreement and for a period of two years thereafter, upon LaMay Property Development's written request, Seller shall allow LaMay Property Development to inspect and make copies of such records and interview Seller personnel in connection with the provision of the Services;

(d) obtain LaMay Property Development's written consent, which may be given or withheld in LaMay Property Development's sole discretion, prior to entering into agreements with or otherwise engaging any person or entity, including all subcontractors and affiliates of Seller, other than Seller's employees, to provide any Services to LaMay Property Development (each such approved subcontractor or other third party, a "Permitted Subcontractor").

LaMay Property Development's approval shall not relieve Seller of its obligations under the Agreement, and Seller shall remain fully responsible for the performance of each such Permitted Subcontractor and its employees and for their compliance with all of the terms and conditions of this Agreement as if they were Seller's own employees. Nothing contained in this Agreement shall create any contractual relationship between LaMay Property Development and any Seller subcontractor or supplier;

(e) require each Permitted Subcontractor to be bound in writing by the confidentiality provisions of this Agreement, and, upon LaMay Property Development's written request, to enter into a non-disclosure or intellectual property assignment or license agreement in a form that is reasonably satisfactory to LaMay Property Development;

(f) ensure that all persons, whether employees, agents, subcontractors, or anyone acting for or on behalf of the Seller, are properly licensed, certified or accredited as required by applicable law and are suitably skilled, experienced and qualified to perform the Services;

(g) ensure that all of its equipment used in the provision of the Services is in good working order and suitable for the purposes for which it is used, and conforms to all relevant legal standards and standards specified by the LaMay Property Development; and

(h) keep and maintain any LaMay Property Development equipment in its possession in good working order and shall not dispose of or use such equipment other than in accordance with the LaMay Property Development's written instructions or authorization.

10. Change Orders. LaMay Property Development may at any time, by written instructions and/or drawings issued to Seller (each a "Change Order"), order changes to the Services. Seller shall within 5 days of receipt of a Change Order submit to LaMay Property Development a firm cost proposal for the Change Order. If LaMay Property Development accepts such cost proposal, Seller shall proceed with the changed services subject to the cost proposal and the terms and conditions of this Agreement. Seller acknowledges that a Change Order may or may not entitle Seller to an adjustment in the Seller's compensation or the performance deadlines under this Agreement.

11. Warranties.

(a) Seller warrants to LaMay Property Development that for a period of 24 months from the Delivery Date, all Goods will:

(i) be free from any defects in workmanship, material and design;

(ii) conform to applicable specifications, drawings, designs, samples and other requirements specified by LaMay Property Development and/or as set forth in Exhibit A;

(iii) be fit for their intended purpose and operate as intended;

(iv) be merchantable;

(v) be free and clear of all liens, security interests or other encumbrances; and

(vi) not infringe or misappropriate any third party's patent or other intellectual property rights.

These warranties survive any delivery, inspection, acceptance or payment of or for the Goods by LaMay Property Development;

(b) Seller warrants to LaMay Property Development that it shall perform the Services using personnel of required

skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement; and

(c) the warranties set forth in this Section 11 are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of LaMay Property Development's discovery of the noncompliance of the Goods or Services with the foregoing warranties. If LaMay Property Development gives Seller notice of noncompliance pursuant to this Section, Seller shall, at its own cost and expense, promptly (i) replace or repair the defective or nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming goods to Seller and the delivery of repaired or replacement Goods to LaMay Property Development, and, if applicable, (ii) repair or re-perform the applicable Services.

12. General Indemnification. Seller shall defend, indemnify and hold harmless LaMay Property Development and LaMay Property Development's affiliates, successors or assigns and its respective directors, members, officers, shareholders and employees (collectively, "Indemnitees") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "Losses") arising out of or occurring in connection with the Goods and Services purchased from Seller or Seller's negligence, willful misconduct or breach of the Terms, including but not limited to Seller's employees or subcontractors. Seller shall not enter into any settlement without LaMay Property Development's prior written consent.

13. Intellectual Property Indemnification. Seller shall, at its expense, defend, indemnify and hold harmless LaMay Property Development and any Indemnitee against any and all Losses arising out of or in connection with any claim that LaMay Property Development's or Indemnitee's use or possession of the Goods or use of the Services infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party. In no event shall Seller enter into any settlement without LaMay Property Development's or Indemnitee's prior written consent.

14. Limitation of Liability. Nothing in this Agreement shall exclude or limit (a) Seller's liability under this Agreement, or (b) Seller's liability for fraud, personal injury or death caused by its negligence or willful misconduct.

15. Insurance. During the term of this Agreement and for a period of 3 years, Seller shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability (including product liability) in a sum no less than \$5 Million and workers compensation to meet or exceed the state minimum with financially sound and reputable insurers. Upon LaMay Property Development's request, Seller shall provide LaMay Property Development with a certificate of insurance from Seller's insurer evidencing the insurance coverage specified in these Terms. The certificate of insurance shall name LaMay Property Development as an additional insured. Seller shall provide LaMay Property Development with 60 days' advance written notice in the event of a cancellation or material change in Seller's insurance policy. Except where prohibited by law, Seller shall require its insurer to waive all rights of subrogation against Seller's insurers and Seller.

16. Compliance with Law. Seller shall comply with all applicable laws, regulations and ordinances. Seller shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. Seller shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Seller. Seller assumes all responsibility for shipments of Goods requiring any government import clearance. LaMay Property Development may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.

17. Termination. In addition to any remedies that may be provided under these Terms, LaMay Property Development may terminate this Agreement with immediate effect upon written notice to the Seller, either before or after the acceptance of the Goods or the seller's delivery of the Services, if Seller has not performed or complied with any of

these Terms, in whole or in part. If the Seller becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors, then the LaMay Property Development may terminate this Agreement upon written notice to Seller. If LaMay Property Development terminates the Agreement for any reason, Seller's sole and exclusive remedy is payment for the Goods received and accepted and Services accepted by LaMay Property Development prior to the termination.

18. Waiver. No waiver by LaMay Property Development of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by LaMay Property Development. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

19. Confidential Information. All non-public, confidential or proprietary information of LaMay Property Development, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by LaMay Property Development to Seller, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the purpose of performing this Agreement and may not be disclosed or copied unless authorized in advance by LaMay Property Development in writing. Upon LaMay Property Development's request, Seller shall promptly return all documents and other materials received from LaMay Property Development. LaMay Property Development shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Seller at the time of disclosure; or (c) rightfully obtained on a non-confidential basis from a third party.

20. Force Majeure. Neither party shall be liable to the other for any delay or failure in performing its obligations under this Agreement 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 or, if it could have been foreseen, was unavoidable ("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, epidemic, war, invasion, hostilities, terrorist acts, riots, strike, embargoes or industrial disturbances. 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 this Agreement. If a Force Majeure Event prevents Seller from carrying out its obligations under this Agreement for a continuous period of more than 10 business days, LaMay Property Development may terminate this Agreement immediately by giving written notice to Seller.

21. Assignment. Seller shall not assign, transfer, delegate or subcontract any of its rights or obligations under this Agreement without the prior written consent of LaMay Property Development. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the Seller of any of its obligations hereunder. LaMay Property Development may at any time assign or transfer any or all of its rights or obligations under this Agreement without Seller's prior written consent to any affiliate or to any person acquiring all or substantially all of LaMay Property Development's assets.

22. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

23. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this

Agreement.

24. Governing Law. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the Commonwealth of Pennsylvania without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Pennsylvania or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Pennsylvania.

25. Submission to Jurisdiction. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts of the Commonwealth of Pennsylvania in each case located in the City of Pittsburgh and County of Allegheny, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

26. Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the sales confirmation 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 (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

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

28. Survival. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: 11, 12, 13, 14, 15, 16, 19, 24, 25 and 28.

29. Amendment and Modification. These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and is signed by an authorized representative of each party.

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