

TERMS AND CONDITIONS OF PURCHASE ORDER

ACCEPTANCE. Seller shall be deemed to have assented to all terms and conditions contained

herein upon Seller's acknowledgment of an order ("Order") placed by Buyer for goods ("Goods") or commencement of performance pursuant hereto. Conditions stated in Seller's acknowledgement or acceptance of an Order or in any quotation or invoice shall not be binding unless expressly agreed to in writing by an authorized representative of Buyer. Seller may not ship under reservation. Buyer's failure to object to provisions contained in any communication from Seller shall not be deemed a waiver of any of the provisions contained herein. All orders or contracts must be approved and accepted by Buyer at its headquarters at 6354 118th Avenue North, Largo, Florida 33773. From time to time Buyer may accept certain of Seller's terms and conditions of sale by signing Seller's proposed sale agreement. If such acceptance is preceded or accompanied by Buyer's interpretation of Seller's terms and conditions, such interpretation shall control the construction or interpretation of the meaning of Seller's terms and conditions.

PAYMENT. Payment will be made net 45 calendar days from Buyer's receipt of Seller's correct

and valid invoice for Goods delivered and accepted or services rendered and accepted. Payment may be withheld or setoffs made against Seller if Seller is not performing work pursuant to an Order. If Buyer returns an invoice to Seller for any reason not attributable to the fault of Buyer, any applicable discount period will commence on the date of receipt of a corrected invoice by Buyer. Payment of any item will not be deemed an acceptance of the Goods or a waiver of any right to test or inspect the Goods. No payment made hereunder shall operate as admission by Buyer that this Order has been complied with by Seller in whole or in part.

PRICES. Unless otherwise specified on the face of an Order, prices include all applicable federal, state and local taxes and cost of delivery of Goods F.O.B. destination, freight and cartage prepaid. Seller agrees that the cost of all designs, drawings, tests, samples, and mockups required pursuant to this Order, together with field measurements, sampling and shipping or delivery expenses connected with any of the foregoing, shall be included in the price. Seller also agrees that the entire cost of altering, reworking, and refinishing any manufactured or fabricated items or equipment and materials provided pursuant to this Order and not conforming to approved designs, drawings, or samples shall be borne by Seller. Seller shall credit Buyer for any tax refund or credit adjustments received by Seller on taxes paid to Seller by Buyer with respect to Goods provided under any Order. Prices will remain firm and will not be subject to renegotiation and shall not be higher than last quoted or charged to Buyer unless otherwise agreed in writing. No charge of any kind not stated on the Order will be allowed unless specifically agreed to in advance by Buyer in writing, but damage to any material because of packing which fails to protect such Goods will be charged to Seller.

DELIVERY. Time is of the essence for the Order. Failure by Seller to meet delivery dates specified

in the Order will constitute a material breach of the Order and Buyer may, at its option take one or more of the following actions: (a) extend the time for delivery; (b) cancel the Order in whole or in part; (c) require Seller to ship all or part of the Goods by prepaid air freight at Seller's expense until Seller's deliveries are in accordance with the requirements of the Order. Seller agrees to pay Buyer any penalty and/or damages imposed upon or incurred by Buyer resulting from Seller's failure to deliver the Goods on the specified delivery dates. Failure to so ship and resultant claims by carriers against Buyer for shipping costs shall result in set off against the Order. Nothing in this Order shall be construed to create a contractual relationship between Buyer and any shipper of goods hereunder. Title and risk of loss shall pass to Buyer upon receipt of the Goods by Buyer.

CANCELLATION/RESCHEDULE. Buyer may cancel, reschedule or modify all or any part

of an Order at any time for convenience upon written notice to Seller. Upon receipt of Buyer's notice, Seller shall cease all work under the Order. Buyer shall only be liable to Seller for services satisfactorily performed to the date of termination and Goods delivered and accepted by Buyer. Any claim by Seller for reimbursement, if any, shall be presented to Buyer in writing within thirty (30) days of Seller's receipt of Buyer's written notice. Seller shall mitigate its claim to the maximum extent, and Buyer shall have the right to audit Seller's books and records related to such reimbursement claim. Cancellation or termination by Buyer will not constitute a waiver or release of any rights and remedies of Buyer in contract or provided by law.

QUANTITIES. Seller will furnish the specific quantity of Goods called for in the Order. Except as otherwise specified in the Order or by prior written agreement signed by Buyer, no variation in these quantities will be accepted, Buyer may return excess shipments at Seller's expense.

PACKAGING AND SHIPPING INSTRUCTIONS. All Goods are to be suitably packed for safe transportation and handling, or otherwise prepared for shipment in accordance with Buyer's instructions or specifications. Unless otherwise specified in the Order, Buyer is not responsible for any costs for packing, crating or carriage. Any losses resulting from Seller's failure to follow Buyer routing instructions will be charged to Seller's account. Each shipping container and all intermediate containers must be marked to show Buyer's Order number, part number with revision letter and quantity. A packing list showing this information must be included in each shipments. All materials to be shipped on a given day via the same mode of transportation from a common shipping point to a common address are to be consolidated into one shipment. Seller shall ship only the quantity specified in the Order and at the lowest freight charges, unless otherwise agreed in writing by Buyer.

INSPECTION. test all Goods for compliance to applicable specifications. Seller shall retain

proper records of such inspections and tests and provide copies to Buyer, if requested. Unless otherwise specified in the Order, final acceptance or rejection of the Goods shall be made after delivery to the final destination, however Buyer's failure to accept or reject Goods or detect defects during inspection does not relieve Seller from its responsibility to provide Goods in accordance with Order requirements.

WARRANTY. Seller warrants and certifies that: (a) the Goods will conform to the specifications, drawings, sample or other descriptions furnished or specified by Buyer or furnished by Seller and accepted by Buyer; (b) all items will be merchantable, of good workmanship, and free from defects; (c) unless otherwise specified herein, all Goods and its components are new and have not been previously used; (d) the Goods are fit for use for their ordinary intended purposes as well as any special purpose specified by Buyer; (e) and all items and the sale thereof do not, and the use of the same for their ordinary intended purpose as well as any special purpose specified will not constitute infringement or contributory infringement of any patent, or infringement of any copyright or trademark, or violation of any trade secret; (f) Seller has good title to the items free from all encumbrances; (g) the price or prices to be paid do not exceed applicable ceiling prices established by law, regulation or order of any governmental authority; and (h) the Goods, if produced in the United States, were or will be produced in compliance with the Fair Labor Standards Act of 1938, as amended or supplemented. These warranties will survive any inspection, delivery, acceptance or payment by Buyer for the Goods and are in addition to, and shall not be construed as restricting or limiting any warranties of Seller, express or implied, that are provided by law or exist by operation of law. In addition to the warranties above, Seller shall extend all warranties that it receives from its vendors to Buyer and Buyer's customers.

If any of the Goods and/or services furnished under the Order are found at any time to be defective in design, material or workmanship, including latent defects, or otherwise not in conformance with Seller's warranty or the requirements of the Order, Buyer, in addition to other remedies under all applicable warranties or otherwise, may at Buyer's option (i) require Seller to promptly correct any defective or nonconforming Goods by repair or replacement at the location specified by Buyer or (ii) return such defective or nonconforming Goods to Seller at Seller's expense and recover from Seller the Order

price. Seller will pay or reimburse Buyer promptly for all costs incurred by Buyer with regard to any defective or nonconforming Goods and/or services.

PROOF OF PAYMENT. If requested by Buyer, Seller will furnish affidavits and instruments certifying

and instruments certifying that payment has been made for all labor, materials and services furnished in the performance or filing of the Order, as well as all releases and indemnities required at the time for payment and written guarantees with respect to the labor, materials and services supplied by Seller. These documents will be in such form and substance as may be required by or from Buyer.

INFRINGEMENT. Seller agrees to indemnify, hold harmless and defend Buyer, its subsidiaries and

affiliates and their respective officers, directors, agents and employees from any and all loss, expenses, damage, liability, claims or demands for actual or alleged infringement of any patent, trademark, copyright or trade secret arising from the purchase, use or sale of Goods or services furnished under the Order, except where such infringement or alleged infringement arises by reason of a design originally furnished to Seller by Purchaser. If the Goods or services or any part thereof or any use thereof be held to constitute infringement and the use enjoined, Seller shall promptly and at its own expense either: (1) procure for Buyer the right to continue using the Goods or services; or (2) replace same with noninfringing Goods or services satisfactory to Buyer or (3) modify the Goods or services in a way satisfactory to Buyer so they become noninfringing.

INDEMNITY. Seller agrees to indemnify and hold harmless Buyer, its subsidiaries and affiliates and their respective officers, directors, agents, and employees, and Buyer customers from any and all losses, damages, liability, claims, demands, or expenses (including reasonable attorneys' fees, court costs, and out-of-pocket expenses) arising out of or incidental to the performance, manufacture, delivery or installation of Goods or the furnishing of services under Buyer's Order, including without limitation any recall, latent defects, replacement or correction of the Goods, death or injury to any person, property damage or loss or any act or omission of seller, its agents, employees or subcontractors. The foregoing indemnity provisions shall not be construed to negate, abridge, or otherwise reduce any other rights of Buyer at law or in equity.

ASSIGNMENT. Seller will not delegate any duties, nor assign any rights or claims under the Order, or for breach thereof, without the prior written consent of Buyer. Any attempted delegation or assignment will be void.

NOTICE OF LABOR DISPUTES. Whenever any actual or potential labor dispute delays or

threatens to delay the timely performance of the Order, Seller will immediately give notice of that dispute to Buyer. Seller agrees to insert the substance of this clause in any lower tier subcontract and to require that in the event its lower tier subcontractors' timely performance is delayed or threatened by delay by any actual or potential labor dispute, the lower tier subcontractor will immediately notify its next higher tier contractor of all relevant information with respect to those disputes.

CONFIDENTIAL INFORMATION. Any knowledge or information that Buyer discloses to Seller

under Buyer's Order, including, without limitation, specifications, technical or business information, forecasts, or schedules, shall be deemed Buyer confidential, proprietary information; and Seller shall not disclose such information, including without limitation, denial or confirmation, relative to the Order without the prior written consent of Buyer. All tools, equipment, dies, drawings or other materials paid for or furnished by Buyer under the Order shall be and remain the sole property of Buyer.

MODIFICATIONS. No modification, amendment or rescission of the Order may be made without

the prior written agreement of Buyer. Any changes to qualified critical materials are subject to Buyer's prior written approval, and substitutes will not be accepted unless authorized in writing by Buyer's duly authorized management. Any overrun quantities will be subject to Buyer's prior written approval. Buyer reserves the right to and Seller agrees to accept reasonable changes to the Order, including, without limitation, changes to quantities, packing, testing, destinations, specifications, designs and delivery schedules, but these changes will be authorized only by Buyer's written Order. If an Order affects delivery or price, Seller will notify Buyer immediately and an equitable adjustment in prices or other terms hereof will be agreed upon in a written amendment to the Order.

FORECASTS. Any Buyer forecasts furnished under an Order are presented in good faith and are nonbinding on Buyer. Buyer shall only be liable for actual Order releases made by Buyer's Purchasing Department.

GOVERNING LAW. The Order and the transactions contemplated thereby shall be construed

in accordance with, and disputes shall be governed by the laws of the State of Florida, excluding its conflict of law rules. At Buyer's sole and absolute discretion, any dispute arising out of or relating to this Order or the performance thereunder may be resolved pursuant to binding arbitration, conducted pursuant to the commercial rules of the American Arbitration Association then applicable. Locale for any arbitration shall be in Florida at a place of Buyer's choosing. The number of arbitrators shall be determined by Buyer, but if more than one, all shall be neutrals. The arbitrators shall have authority to award the prevailing party its reasonable costs and attorneys' fees. Failing such award, costs shall be borne equally. A judgment upon the award entered in such arbitration proceedings may be entered in any court have jurisdictions to enter such judgment. If Buyer does not elect arbitration, disputes arising out of or related to this Order or the performance thereunder may be resolved by judicial action. If Buyer elects dispute resolution by judicial action, the Sixth Judicial Circuit Court of Florida shall have exclusive jurisdiction and exclusive venue over all controversies in excess of \$30,000 arising out of or related to the Order and the transactions contemplated thereby. If Buyer elects dispute resolution by judicial action, the County Court of Pinellas County shall have exclusive jurisdiction and exclusive venue over all controversies not in excess of \$30,000 arising out of or related to the Order and the transactions contemplated thereby.

REMEDIES. The remedies reserved in the Order are cumulative and additional to any other further remedies at law or in equity; however, in no event will Buyer be liable to Seller for incidental or consequential damages. All of the terms of the Order are material terms and no waiver of or exception to any of the terms, conditions or provisions contained in the Order shall be valid unless specifically agreed to in writing by Buyer. In the event Seller fails to make deliveries as agreed, subject to delays of common carriers or other causes beyond its control and not reasonably foreseeable (notice of each delay is to be immediately given to Buyer in writing), Buyer shall have the privilege (but shall be under no obligation to do so, without prejudice to other Buyer remedies) as often as necessary, upon 48 hours written notice to Seller, of purchasing such of the material herein contracted for as may be required to carry on and complete the project without delay, charging the expense thereof to Seller, including the cost of the materials, the time and labor required to procure the same and the cost of delivery thereof, penalties, lost profits, interest and reasonable attorneys' fees, or of terminating this Order, charging all reasonable costs and damages (including interest, lost profits, and attorneys' fees) to Seller. The exercise of Buyer's option to supplement or cover shall not relieve Seller from its duty to furnish in accordance with the Order within the time herein before specified.

NON-WAIVER DEFAULT. Each shipment made under any Order shall be treated as separate

sale and transaction, but in the event of any default by Seller, if Buyer elects to continue to accept shipments, its action shall not constitute a waiver of any default by Seller or in any way affect

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Buyer's legal remedies for any such default.

COMPLIANCE WITH LAWS. Seller shall comply fully with all applicable federal, state, municipal and local laws, orders and regulations, including without limitation applicable employment, tax, export control and environmental laws, relating in any way to the production, manufacture, sale and delivery of the Goods, including without limitation those affecting limiting prices, production, purchase, sale and use of materials.

EQUAL EMPLOYMENT OPPORTUNITY. The provisions of Section 202 of Executive Order 11246 and the Rules and Regulations issued pursuant to Section 201 therein are hereby incorporated by reference, and Seller represents by acceptance of the Order that Seller will comply with such Executive Order and rules, regulations and amendments thereto to the extent the same are applicable to the manufacture and sale of Goods provided under the Order or the contracting or subcontracting of services or work hereunder.

FORCE MAJEURE. Neither party shall be liable for delay in performance or failure to perform in whole or in part the terms of this Agreement due to strike, labor dispute, war, riot or civil commotion, acts of the public enemy, fire, flood or other acts of God, or causes beyond the reasonable control of such party. The period for performance for the party affected by such a cause shall be extended by the duration of the condition.

TERMINATION. In the event that Seller becomes insolvent or bankruptcy proceedings are instituted against it or on its behalf, or if Seller makes an unauthorized assignment for the benefit of creditors, such events shall be deemed a material breach hereunder, entitling Buyer to immediately terminate any agreement hereunder, to cease performance hereunder, and to avail itself of any and all legal or equitable remedies it may have against Seller. Seller agrees to give written notice to Buyer of such insolvency or bankruptcy proceedings at least 30 days prior to such proceedings. Seller agrees to give written notice to Buyer of such insolvency or bankruptcy proceedings at least 30 days prior to such proceedings.

By accepting this agreement, I acknowledge and accept the terms of Comfort Systems USA, Inc.'s Supplier Code of Conduct, which is available under the Governance tab at investors.comfortsystemsusa.com.