



Purchase Order Terms and Conditions

Each Purchase Order placed by Buyer for Goods, Services, or both, is subject to these Terms and Conditions. Seller shall be deemed to have agreed to be bound by such terms by accepting the Purchase Order, delivering the Goods, or performing the Services. In the event of any conflict with any other set of terms, both Parties agree this Agreement will take precedence. These Terms and Conditions can be found on Buyer's website at www.tiltwall.ca.

1. Definitions

- 1.1 "Agreement" means the agreement between Seller and Buyer for the purchase and sale of Goods, Services, or both, to which these Terms and Conditions are attached or are incorporated by reference.
- 1.2 "Buyer" means Tilt Wall Ontario Inc.
- 1.3 "Delivery Date" means the date of delivery for Goods or performance of Services as specified in a Purchase Order.
- 1.4 "Delivery Point" means the location identified in the Purchase Order to which the Seller is to deliver Goods or perform the Services, or such other delivery area or point which is specified in writing by Buyer.
- 1.5 "Goods" means the goods that are required to be delivered by Seller pursuant to a Purchase Order, and include all materials, component parts, packaging and labelling of such goods.
- 1.6 "Party/Parties" means the parties to this agreement, as indicated on the face page of the Purchase Order.
- 1.7 "Purchase Order" means the purchase order between Buyer and Seller for the purchase and sale of Goods, Services, or both, to which these Terms and Conditions are attached or are incorporated by reference.
- 1.8 "Seller" means the party indicated on the face page of the Purchase Order that is contracting with Buyer for the purchase and sale of Goods, Services, or both,.
- 1.9 "Services" means any services to be provided by Seller to Buyer pursuant to a Purchase Order to which these Terms and Conditions.
- 1.10 "Specifications" means the requirements, attributes and specifications for the Goods or Services that are set out in the applicable Purchase Order. Specifications also include: (a) documentation published by Seller relating to the Goods or Services; (b) operational and technical features and functionality of the Goods or Services; (c) standards or levels of service performance for Services; and (d) Buyer business requirements that are expressly set out in a Purchase Order.

2. Sale of Goods and Services.



2.1 Seller shall sell, transfer, and deliver to Buyer the Goods, and perform the Services as outlined in the Purchase Order.

3. **Price and Payment**

3.1 Prices for the Goods, Services, or both will be set out in the applicable Purchase Order (the "**Purchase Price**"). Unless otherwise specified in Purchase Order, all prices shall be in Canadian Dollars.

3.2 Increases to the Purchase Price or charges not expressly set out in the Purchase Order shall not be effective unless agreed to in writing.

3.3 Invoices are to be submitted on or before the 5th business day following the last business day of the prior month. Any invoice submitted after that time period must be dated no sooner than the first business day of the month and will be paid according to Tilt Wall Terms of Purchase.

3.4 Buyer shall pay the undisputed portion of properly rendered invoices within 90 days of issuance. Buyer shall have the right to withhold payment of any invoiced amounts that are disputed in good faith until the parties reach an agreement with respect to such disputed amounts and such withholding of disputed amounts shall not be deemed a breach of this Agreement nor shall any interest be charged on such amounts. Notwithstanding the foregoing, Buyer agrees to pay the balance of the undisputed amounts on any invoice that is the subject of any dispute within the time periods specified herein.

3.5 Seller will not sell to Buyer any Goods or Services for a higher price, or with better terms, than what is offered to other potential buyers. Any beneficial discrepancy will be passed on to the Buyer.

4. **Taxes.**

4.1 Unless otherwise stated in a Purchase Order, all prices or other payments stated in the Purchase Order are exclusive of any taxes. Seller shall separately itemize all applicable taxes on each invoice and indicate on each invoice its applicable tax registration number(s). Buyer shall pay all applicable taxes to Seller when the applicable invoice is due. Seller shall remit all applicable taxes to the applicable government authority as required by applicable laws. Notwithstanding any other provision of this Agreement, Buyer may withhold from all amounts payable to Seller all applicable withholding taxes and to remit those taxes to the applicable governmental authorities as required by applicable laws.

5. **Delivery of Goods and Services**

5.1 Seller agrees to supply and deliver the Goods to Buyer and to perform the Services, as applicable, on the terms set out in this Agreement.

5.2 Seller shall, at its own expense, pack, load, and deliver Goods to the Delivery Point in accordance with the invoicing, delivery terms, shipping, packing, and other instructions printed on the face of the Purchase Order or otherwise provided to Seller by Buyer in



writing. No charges shall be allowed for freight, transportation, insurance, shipping, storage, handling, demurrage, cartage, packaging or similar charges unless provided for in the applicable Purchase Order.

- 5.3 The specific method of shipment shall be within the discretion of Buyer. In any case, Seller shall be responsible for the lesser of truck freight or rail freight to Buyer.
- 5.4 Time is of the essence with respect to delivery of the Goods and performance of Services. Goods shall be delivered and Services performed by the applicable Delivery Date. Seller shall immediately notify Buyer if Seller will be unable to meet a Delivery Date. In the event that Seller fails to ship Goods on or before any scheduled shipping date, Buyer shall have the right to specify a more rapid method of shipment than what was specified originally. Seller shall bear, at no additional cost to Buyer, any increased costs occasioned thereby.
- 5.5 At any time prior to the Delivery Date, Buyer may, upon notice to Seller, cancel or change a Purchase Order, or any portion thereof, for any reason, including, without limitation, for the convenience of Buyer or due to failure of Seller to comply with this Agreement, unless otherwise noted.
- 5.6 Title and risk of loss or damage, regardless of the cause, shall remain with Seller until the Goods have been received by Buyer at the Delivery Point, at which time title and risk of loss or damage will pass to Buyer or, in the alternative, once the Seller delivers a document of title or registrable bill of sale of the Goods, bearing any necessary endorsement, to the Buyer.

6. Inspection, Acceptance, and Rejection

- 6.1 All shipments of Goods and performance of Services shall be subject to Buyer's right of inspection. Buyer shall have the right to reject any Goods or Services that are delivered in excess of the quantity ordered are damaged or defective, or are not in conformance with the Specifications or any term of this Agreement. Transfer of title to Buyer of Goods shall not constitute Buyer's acceptance of those Goods or Services.
- 6.2 If the Goods or Services are damaged, defective, not suitable for their intended purpose, or otherwise do not conform with the Specifications in any way, Seller shall reimburse Buyer for any and all expenses incurred by Buyer as a result of the damage, defect, or non-conformity of the Goods.
- 6.3 Buyer shall be entitled to return rejected Goods to Seller at Seller's expense and risk of loss for, at Buyer's option, either: (i) full credit or refund of all amounts paid by Buyer to Seller for the rejected Goods; or (ii) replacement Goods or Services to be received within the time period specified by Buyer. Title to rejected Goods that are returned to Seller shall transfer to Seller upon such delivery and such Goods shall not be replaced by Seller except upon written instructions from Buyer. Seller shall not deliver Goods that were previously rejected on grounds of non-compliance with this Agreement, unless delivery of such Goods is approved in advance by Buyer, and is accompanied by a written disclosure of Buyer's prior rejection(s).

7. Hazardous Materials.



- 7.1 Seller agrees to provide, upon and as requested by Buyer, to satisfy any applicable laws governing the use of any hazardous substances either of the following:
 - 7.1.1 all reasonably necessary documentation to verify the material composition, on a substance by substance basis, including quantity used of each substance, of any Goods, or of any process used to make, assemble, use, maintain or repair any Goods; or
 - 7.1.1.1 all reasonably necessary documentation to verify that any Goods or any process used to make, assemble, use, maintain or repair any Goods, do not contain, and the Services do not require the use of, any particular hazardous substances specified by Buyer.

8. **Goods Warranties.**

- 8.1 Seller warrants that Seller is the legal owner of the Goods and has the right to sell the Goods to Buyer. Seller further warrants that the Goods are:
 - 8.1.1 of merchantable quality;
 - 8.1.2 fit for the purposes for which such Goods are ordinarily intended, or as advised by Buyer to Seller;
 - 8.1.3 unless otherwise agreed to by Buyer, new;
 - 8.1.4 free from defects in design, material and workmanship;
 - 8.1.5 free from any liens or encumbrances on title whatsoever;
 - 8.1.6 in conformance with any samples provided to Buyer;
 - 8.1.7 free of the rightful claim of any person arising from patent or trademark infringement; and
 - 8.1.8 compliant with all applicable federal, provincial, and municipal laws, regulations, standards, and codes.

9. **Service Warranties.**

- 9.1 Seller shall perform all Services:
 - 9.1.1 exercising that degree of professionalism, skill, diligence, care, prudence, judgment, and integrity which would reasonably be expected from a skilled and experienced service provider providing services under the same or similar circumstances as the Services under this Agreement;
 - 9.1.2 in accordance with all Specifications and all Buyer policies, guidelines, by-laws and codes of conduct applicable to Seller; and
 - 9.1.3 using only personnel with the skills, training, expertise, licensing, and qualifications necessary to carry out the Services. Buyer may object to any of the Seller's personnel engaged in the performance of Services who, in the reasonable opinion of Buyer, are



lacking in appropriate skills or qualifications, engage in misconduct, constitute a safety risk or hazard or are incompetent or negligent, and the Seller shall promptly remove such personnel from the performance of any Services upon receipt of such notice, and shall not re-employ the removed person in connection with the Services without the prior written consent of Buyer.

- 9.1.4 Seller shall assign to Buyer all manufacturer's warranties for Goods not manufactured by or for Seller, and shall take all necessary steps as required by such third-party manufacturers to effect assignment of such warranties to Buyer.

10. **Indemnities and Insurance**

- 10.1 Seller shall indemnify, defend and hold harmless Buyer, its Affiliates, and their respective officers, directors, employees, consultants, and agents (the "Buyer Indemnified Parties") from and against any claims, fines, losses, actions, damages, expenses, legal fees and all other liabilities brought against or incurred by the Buyer Indemnified Parties or any of them arising out of: (a) death, bodily injury, or loss or damage to real or tangible personal property resulting from the use of or any actual or alleged defect in the Goods or Services, or from the failure of the Goods or Services to comply with the warranties hereunder; (b) any claim that the Goods or Services infringe or violate the Intellectual Property Rights or other rights of any person; (c) any intentional, wrongful or negligent act or omission of Seller or any of its Affiliates or subcontractors; (d) Seller's breach of any of its obligations under this Agreement; or (e) any liens or encumbrances relating to any Goods or Services.

- 10.2 At all times, Seller will maintain all statutory insurance coverage, commercial general liability coverage, crime insurance coverage, and professional liability & errors and omissions coverage of at least \$5,000,000, and any other industry standard insurance coverage, with financially sound and reputable insurers. Furthermore, upon Buyer's request, Seller shall provide Buyer with a certificate of insurance from Seller's insurer evidencing the insurance coverage specified in this Agreement. The certificate of insurance shall name Buyer as an additional insured. Seller shall provide Buyer with twenty 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 Buyer's insurers and Buyer. Seller will provide copy of said coverage on Buyer's request. Seller understands that this clause is fundamental to this Agreement, and Buyer may, amongst other remedies, withhold payment until insurance requirements are met.

- 10.2.1 With respect to professional engineers and other regulated professions, said parties must supply a certificate of insurance before work commences, and said insurance must meet the generally accepted industry standard of insurance coverage.

11. **Notices.**

- 11.1 Any notice to be given or document to be delivered to either Seller or Buyer pursuant to this Agreement shall be sufficient if delivered personally or sent by prepaid registered mail to the respective addresses laid out in the Purchase Order. Any written notice or delivery of documents shall be deemed to have been given, made, and received on the



day of delivery if delivered personally, or on the third (3rd) consecutive business day next following the date of mailing if sent by prepaid registered mail.

12. Paramourcy of Terms and Conditions.

12.1 In the event of any inconsistency, deviation, discrepancy, or ambiguity in or between any of these Terms and Conditions and the Purchase Order, or any other documents pertaining to the transaction, these Terms and Conditions shall prevail.

13. Termination

Buyer may terminate any agreement entered into with Seller without cause, by giving 30 days written notice.

14. Interpretation.

14.1 The headings used in this Agreement and its division into articles, sections, schedules, exhibits, appendices, and other subdivisions do not affect its interpretation. Unless the context requires otherwise, words importing the singular number include the plural and vice versa; words importing gender include all genders.

15. Survival.

15.1 Any provision of this Agreement which expressly or by implication from its nature is intended to survive the termination or completion of the Agreement will continue in full force and effect after any termination, expiry or completion of this Agreement.

16. Assignment.

16.1 Seller shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Buyer. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Seller of any of its obligations under this Agreement.

17. Modification.

17.1 This Agreement shall not be modified in any way except in writing signed by all the Parties to this Agreement.

18. Governing Law and Applicable Law.

18.1 This Agreement shall be governed by the laws of the Province of Ontario. The courts of London Ontario will have exclusive jurisdiction over any matter arising out of this Agreement.

19. Severability.

19.1 If any provision of this Agreement is determined to be unenforceable or invalid for any reason whatsoever, in whole or in part, such invalidity or unenforceability shall attach



only to such provision or part thereof and the remaining part thereof and all other provisions shall continue in full force and effect.

20. **Execution.**

20.1 This Agreement may be executed in counterparts. Facsimile and digital signatures are binding and are considered to be original signatures.

21. **Language.**

21.1 It is the express wish of the parties that this Agreement and any related documentation be drawn up in English. Il est de la volonté expresse des parties que cette convention ainsi que tout document connexe soient rédigés en langue anglaise.

22. **Entire Agreement.**

22.1 Except as may be expressly agreed in writing by authorized representatives of the Parties, this Agreement includes the Purchase Order, these Terms and Conditions, any agreed upon specifications required for the Goods or Services, and any modifications approved pursuant to Section 17 above, and constitutes the entire agreement between the Parties and replaces any earlier agreements, whether oral or written. The Purchase Order, and these Terms and Conditions are paramount to any invoice related thereto. The parties agree that there are no other agreements, representations, or warranties other than those expressed herein.