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## **SELLER'S TERMS AND CONDITIONS**

These Terms and Conditions supersede all previous agreements and representations relating to the subject matter hereof. Any representation, promise, or condition in connection with this order, not incorporated herein, shall not be binding upon the Seller, STULZ Air Technology Systems, Inc. (STULZ).

Any terms that differ in any respect from these Terms and Conditions are hereby null and void. Such proposed terms are null and void whether they are introduced by the party placing this order, or if they are contained in any master agreement, subcontract, or other agreement among third parties related to this order, but to which STULZ is not a party.

**Name/Address** - All Purchase Orders must be made out to: STULZ, 1572 Tilco Drive, Frederick, MD 21704.

**Payment Terms** - (1%10, Net 30 Days) All Invoices are due 30 Days after the date of the Invoice. On all past due accounts an interest of 18% per annum will be charged and STULZ reserves the right to file liens. Retainage must be authorized before acceptance.

**Freight Terms** – STULZ freight terms are FOB point of Origin (Factory) for all orders. Any exception must be authorized before acceptance and additional charges will apply.

**Plans & Specifications** – All equipment is manufactured per STULZ stamped and approved submittals/specification or referenced quotation.

**Warranty** - STULZ warranty terms as published on [www.stulz-ats.com](http://www.stulz-ats.com), Product Support, are incorporated herein.

**Indemnification** – Purchaser agrees to indemnify, save harmless, and defend STULZ and its officers, employees, and agents from and against any and all liabilities, claims, penalties, judgments, awards, suits, and the costs and expenses incident thereto (including costs of defense, settlement, and reasonable attorney's fees), which STULZ may hereafter incur, come responsible for, or pay out as a result of death or bodily injures to any person or destruction or damage to any property, to the extent caused by (1) purchaser's breach of any term or provision of the Agreement, or (2) the negligence, gross negligence, recklessness, or intentional misconduct of purchaser, its employees, and its subcontractors in the performance of the Agreement.

**Acts of God** - STULZ shall not be liable for any delay in delivery caused by Acts of God, war conditions, riot, governmental regulations (domestic or foreign), fire, flood, explosion, strike, labor trouble, accident, delay of carrier, transportation difficulty, embargoes, or any cause beyond STULZ's control which interferes with normal operation of STULZ's factory. STULZ may deliver within a reasonable time after such cause for delay has been removed.

**Sales Tax** - The prices do not include, except as expressly stated in the quotation, any present or future sales, use, excise, similar taxes or any increase in such taxes. Consequently, in addition to the price specified herein, the amount of any present or future taxes or increase in such taxes applicable to the sale, or use of the equipment hereunder shall be paid by the purchaser, or in lieu thereof the Purchaser shall provide the Company with the tax-exempt certificate acceptable to the tax authorities.

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1572 Tilco Drive, Frederick, MD 21704, U.S.A. • +1 301.620.2033 ph • +1 301.662.5487 fx • [info@stulz-ats.com](mailto:info@stulz-ats.com)

[www.stulz-ats.com](http://www.stulz-ats.com)



**Cancellations/Change Orders/Delays** - In the event the customer cancels any purchase order (or part, thereof), the customer will be subject to a charge based upon the purchase order price. The cancellation fee will be determined by evaluating the stage of completion of the order so affected and can be as high as 100% of the purchase order, per the chart below.

In the event the customer changes an order for any reason, a notification must be received in writing at STULZ incorporating all of the details of the change. A change order fee will be charged in conjunction with the stage of completion, per the chart below. All change orders will affect lead-times. Upon authorization of the change order fee, new ship dates will be acknowledged.

In the event the customer delays acceptance of delivery of an order more than 1 week, authorization must be obtained and storage fees will apply. Any unauthorized delays will be considered cancelled and a cancellation fee of 100% applies.

Status of Order	Commercial Order Processing	Technical Order Processing	Production Released	Production Started	Production Completed
Cancellation fees	USD 250	USD 500 - Not to exceed 10% of PO Value	40%	90%	100%
Change Order fees	USD 250	USD 500 - Not to exceed 10% of PO Value	In general not possible, exceptions determined at factory		

**Time is of the Essence** – STULZ is committed to meet customer’s ship dates but is limited to the availability of material and capacity. Hence, time specific clauses are not accepted.

**Damages** - In no event shall STULZ be liable for consequential, liquidated, punitive or other damages; STULZ’s liability on any claim for losses arising out of, or connected with the supplying of its products, their sale, resale or use, shall in no case exceed 25% of the purchase order price paid to STULZ for the products involved in the claim.

**Intellectual Property** - STULZ retains and reserves unto itself all intellectual property rights, including copyright, trademark, trade names, trade dress, and all patent rights ("IP Rights"), to all products subject to these terms and conditions. By selling its products pursuant to these terms and conditions, STULZ is not selling, conveying, assigning, or licensing any IP Rights to its customers, as all such rights belong to STULZ. No efforts to claim that STULZ product’s, or any IP Rights contained within them, constitute works made for hire, or to otherwise convey IP Rights to the customer, shall be effective.

**Waivers** - No waiver, alteration or modification of the foregoing conditions shall be valid unless made in writing and signed by an officer of STULZ. No provisions of any purchase order or any form of acknowledgement used by the buyer, which are inconsistent with, or in addition to, the terms and conditions on the face, except additional provisions specifying delivery schedules or invoicing and shipping instructions, shall be considered applicable to the purchase of STULZ’s products; no such provision shall be binding upon STULZ unless specifically accepted and signed by an officer of STULZ.

**Disputes** - The interpretation, construction, effect, and performance of this document and an agreement of sales therefrom, is to be governed by the laws of the State of Maryland. Customer agrees and consents to the jurisdiction of the federal and state courts of Maryland for the resolution of any disputes, without regard to conflict of laws principles. At the sole option of STULZ, any disputes arising out of this Agreement shall first be submitted to mediation with JAMS/Endispute. Mediation shall be conducted in Frederick County, Maryland. If STULZ chooses to mediate any dispute, it shall request mediation by written demand. Should Customer refuse to mediate, Customer shall pay all attorneys' fees, costs, and interest associated with STULZ's enforcement of its demand for mediation. If STULZ demands mediation, then both sides will attend at least one session of mediation in a good faith effort to resolve the dispute.