

**STANDARD TERMS AND CONDITIONS
PALMER FIXTURE**

- 1. Acceptance.** These terms and conditions of sale (“Terms”) shall operate as Palmer Fixture’s (“Palmer”) acceptance of Buyer’s purchase order, but such acceptance is expressly conditioned on assent by Buyer to these Terms. Such assent shall be deemed to have been given unless written notice of objection to any of such conditions (including inconsistencies between Buyer’s purchase order and this acceptance) is given by Buyer to Palmer promptly on receipt of these Terms.
- 2. Acknowledgement.** Palmer will issue a written acknowledgement for each order accepted during the term of this relationship (each an “Acknowledgement”). The Acknowledgement, together with these Terms, shall collectively constitute the “Agreement.” Scheduled ship dates are stated on each Acknowledgement. All orders are considered correct as acknowledged. Buyer should review each Acknowledgement promptly and notify Palmer of any discrepancies. In the event of any difference or inconsistency between Palmer’s Acknowledgement and Buyer’s purchase order, Palmer’s Acknowledgement will control. Any error or discrepancy on an Acknowledgement must be reported to Palmer in writing within three (3) working days of Acknowledgement date.
- 3. Order Changes / Cancellations.** Purchase orders acknowledged by Palmer cannot be changed or cancelled without Palmer’s consent, which consent may be conditioned upon Buyer’s agreement to pay increased or additional expenses resulting from the requested change or cancellation, including but not limited to a twenty-five percent (25%) cancellation charge if order is cancelled or changed within a minimum of twenty (20) days prior to expected delivery date as acknowledged.
- 4. Payment.** Products and services sold by Palmer to Buyer hereunder shall be charged to and paid for by Buyer in accordance with agreed upon pricing. Buyer shall remit to Palmer in United States currency the total amount of such invoices promptly within thirty (30) days of receipt thereof, without any offset of any type whatsoever, unless agreed to in writing by Palmer. Palmer reserves the right to modify payment terms by Buyer as deemed necessary. A 1.5% finance charge will be added to all unpaid balances over 30 days. The Buyer is subject to a 3% fee for all credit card payments. Palmer reserves the right to modify payment terms by Buyer as deemed necessary.
- 5. Intellectual Property Rights Protection.** Buyer shall indemnify and hold Palmer, its directors, officers, employees, customers, successors, assigns (hereinafter, for purposes of this Paragraph 5, collectively referred to as “Palmer”), harmless from any liability on claims of copyright, patent, trademark or trade secret infringement against Palmer on account of any copyright, patent, trademark, trade secret, logo or design used or furnished by Buyer in the performance of this Agreement, and Buyer shall defend any suits brought against Palmer for any such claim and shall

bear Palmer's cost, expenses and reasonable attorneys' fees in the defense thereof and the judgments and costs which may be awarded against Palmer in therein or amounts paid in settlement with Palmer's prior approval; provided that Palmer shall notify Buyer of any claim or suit with reasonable promptness after Palmer receives notice thereof and Buyer shall have the right to participate in or take over the defense of such claim or suit. Buyer acknowledges any and all industrial and other intellectual property rights, and all rights, interests, and protections that are associated with, equivalent or similar to, or required in the production of the goods and services, however arising, in each case whether registered or unregistered and including all registrations and applications for, and renewals or extensions of, such rights or forms of protection pursuant to the laws of any jurisdiction throughout in any part of the world (collectively, "Palmer Intellectual Property Rights") are the sole and exclusive property of Palmer, and Buyer shall not acquire any ownership interest in the Palmer Intellectual Property Rights.

6. **Warranty.** This warranty applies to Buyers who order the E-Z Taping System for subsequent resale, as well as those customers who purchase the E-Z Taping System product at a retail store (for purposes of this provision, collectively referred to as, "Buyer"). Palmer warrants that all Palmer products sold by it to Buyer shall be free from defects in materials or workmanship for period of sixty (60) days from the date of shipment or otherwise stated to Buyer. Palmer further warrants that it has good title to the products supplied and that the products are free and clear from all liens and encumbrances. **PALMER MAKES NO WARRANTY OF MERCHANTABILITY AND NO WARRANTY THAT THE PRODUCTS SHALL BE FIT FOR ANY PARTICULAR PURPOSE. PALMER FURTHER DISCLAIMS ANY WARRANTY BASED ON DESIGN FURNISHED BY BUYER.** Any claim on account of defective materials or for any other cause whatsoever shall conclusively be deemed waived by Buyer unless written notice hereof is given to Palmer promptly after discovery but not later than sixty (60) days from date of shipment and/or purchase, as applicable. **PALMER SHALL HAVE THE RIGHT EITHER TO REPLACE OR REPAIR ANY DEFECTIVE PRODUCT, TO REFUND THE PURCHASE PRICE UPON RETURN OF THE PRODUCT OR TO GRANT A REASONABLE ALLOWANCE ON ACCOUNT OF SUCH DEFECTS, AND PALMER'S LIABILITY AND BUYER'S EXCLUSIVE REMEDY FOR DEFECTIVE PRODUCT SHALL BE LIMITED SOLELY TO REPLACEMENT, REPAIR, REFUND OR ALLOWANCE AS PALMER MAY ELECT. IN NO EVENT SHALL PALMER BE LIABLE TO BUYER FOR ANY SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM DEFECTIVE PRODUCT OR ANY OTHER BREACH OF THIS AGREEMENT.**

7. **Delivery.** Palmer shall make shipments as near to the expected ready date as possible, but no rights shall accrue to Buyer hereunder by reason of Palmer's delay in shipping on such expected ready date. Palmer shall not be liable for any loss or damage resulting from failure or delays in delivery by any cause whatsoever which is beyond Palmer's control (such as acts of God, strikes or labor trouble, governmental regulations, war, delays in obtaining materials, equipment or transportation). The Buyer shall be liable for the added costs of storage, handling and carrying of materials at the Palmer's facility when shipments are postponed or delayed for reasons beyond

Palmer's control or at Buyer's request. Palmer reserves the right to add to the selling price handling, delivery, and administrative charges, not to exceed published freight charges. IN NO EVENT SHALL PALMER BE LIABLE TO BUYER FOR SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY DELAYED OR FAULTY DELIVERY.

8. **Title – Risk of Loss / Shipment.** Title, possession, and risk of loss or damages in transit or otherwise, pass to the Buyer at the Palmer's plant upon delivery to any truck or carrier. Method of shipment will be determined by Buyer, and sent with the freight company indicated on order with freight charges paid by Buyer.
9. **Shipment Damage Claims.** All products are packaged to comply with carrier requirements and leave Palmer's manufacturing facilities in good condition. Buyer shall be responsible to carefully inspect all product upon delivery and before acceptance. Any damage discovered upon delivery must be noted on the bill of lading. Notification of damage discovered after delivery must be given to the carrier within fifteen (15) days immediately following delivery, and all damaged product must be kept at the point of delivery in its original packaging. Palmer shall not be liable for loss or damage to product that occurs in transit, and Buyer's sole remedy for any such damages shall be to seek appropriate recourse against the carrier.
10. **Shortage Claims.** Buyer must report shortage claims to Palmer within ten (10) days immediately following delivery. Shortage claims reported after ten (10) days after delivery will not be honored.
11. **Returns.** Product conforming to the specifications contained in Palmer's Acknowledgement to Buyer may not be returned to Palmer without Palmer's consent, which consent may be conditioned upon Buyer's agreement pay re-handling and/or restocking charges and/or to prepay all freight charges on the return shipment. Palmer shall be given reasonable opportunity to investigate all claims and no materials or product shall be returned to Palmer until after inspection and approval by Palmer and receipt by Buyer of written shipping instructions from Palmer.
12. **Indemnity.** Buyer agrees to and does hereby indemnify and hold harmless Palmer, its successors, assigns, directors, officers, agents, and employees (hereinafter in this paragraph only collectively referred to as "Palmer Indemnitees") from and against any and all liabilities, demands, claims, suits, losses, damages, causes of action, fines, amounts paid in settlement or judgments including costs, reasonable attorneys' and witnesses' fees and expenses incident thereto which may be suffered by reason of any loss, damage, death or injury arising out of or in connection with Buyer's design of parts ordered from Deluxe, Buyer's incorporation of parts into Buyer's product(s) or any breach of this Agreement by Buyer, provided that nothing in this Agreement shall be construed as requiring Buyer to defend, indemnify, or hold Palmer harmless with respect to the negligence, willful misconduct or fault of Palmer. In the event that any demand or claim is made or suit is commenced against Palmer, Palmer shall give prompt written notice to Buyer and Buyer shall have the right to compromise such claim to the extent of its own interest and shall undertake the defense of any such suit. If said loss, damage, death or injury ("**Damages**") is caused by the negligence of both Buyer and Palmer the apportionment of said

Damages shall be shared by the parties based upon the comparative degree of each party's negligence.

13. **Statute of Limitations.** Except as specifically set forth in these Terms, no claim arising out of or in connection with products purchased from Palmer, these Terms or any product warranty applicable to any Palmer product may be brought by Buyer more than one (1) year after the cause of action on which it is based has accrued.
14. **Force Majeure.** Excluding any payment obligations under this Agreement, neither of the parties hereto shall be liable in damages or have the right to terminate this Agreement, or any contract arising out this Agreement, for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to, fires, floods and other acts of God; war, terrorism, or other hostilities; strikes or other labor disputes; work stoppages; accidents and casualties; inability to procure supplies, fuel and raw materials; delays in transportation; restrictions or regulations imposed by any governmental authority; quarantine or embargo; disease, illness, outbreak or plague or any other cause beyond the party's control, whether of the kind enumerated or otherwise.
15. **Waiver, Amendment or Modification.** The waiver, amendment or modification of any provision of this Agreement or any right, power or remedy hereunder shall not be effective unless made in writing and signed by both parties. The terms of this Agreement shall not be amended or changed by the terms of any purchase order, order form or acknowledgment even though Palmer may have accepted or signed such documents. No failure or delay by either party in exercising any right, power or remedy with respect to any of its rights hereunder shall operate as a waiver thereof.
16. **Notice.** All notices required hereunder (except invoice or purchase orders as provided herein) shall be in writing and shall be deemed to have been duly given if delivered in person or if mailed certified mail, postage prepaid, return receipt requested or overnight courier and addressed as follows:

To Palmer:

Palmer Systems
Mr. Siggi Witt, President
PO Box 10887
Green Bay, WI 54307-0887

To Buyer: Address set forth on the Order.

17. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties in connection with the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties

and/or subsidiaries of the parties pertaining to the same subject matter hereof. There are no warranties, representations and/or agreement between the parties in connection with the subject matter hereof except as specifically set forth or referred to herein. The contract resulting from these Terms and acceptance of Buyer's order cannot be canceled, terminated or modified by Buyer in whole or in part except with Palmer's consent in writing and then only upon terms and conditions then to be agreed upon which shall include protection of Palmer against all loss.

- 18. Successors and Assigns.** Neither party shall assign this Agreement in whole or part without the prior written consent of the other party which consent shall not be unreasonably withheld, provided, however, that either party may assign this Agreement and its rights and obligations to any successor corporation resulting from a merger, consolidation or reorganization or such party. Subject to the foregoing, all of the terms, conditions, covenants, and agreements contained herein shall inure to the benefit of, and be binding upon, any such successor corporation and any permitted assignees of the respective parties hereto. It is further understood and agreed that consent by either party to such assignment in one instance shall not constitute consent by the party to any other assignment.
- 19. Governing Law; Severability; Venue.** The validity, construction and performance of this Agreement and the legal relations among the parties of this Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin. If any provision of this Agreement or the application of any such provision shall be held by a tribunal of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement shall continue in full force and effect. Buyer and Palmer agree that all disputes governing this Agreement shall be venued in either Brown County Circuit Court or the United States District Court for the Eastern District of Wisconsin, Green Bay Division and both parties hereby submit to the jurisdiction of such courts and agree not to remove any suit or other action regarding or relating to this Agreement to any other court or jurisdiction.