



This Purchase Order is an offer only and shall not bind SAI until accepted in writing without modification by Contractor. SAI reserves the right to revoke this Purchase Order at any time upon notice and prior to acceptance by Contractor. Any modifications by Contractor to this Purchase Order shall be deemed a rejection of the Purchase Order.

## PURCHASE ORDER - TERMS AND CONDITIONS

IMPORTANT: PLEASE CAREFULLY READ THESE PURCHASE ORDER TERMS AND CONDITIONS.

THE PURCHASE ORDER TERMS AND CONDITIONS ("Terms") ARE LIMITED TO THOSE CONTAINED HEREIN. ANY ADDITIONAL OR DIFFERENT TERMS IN ANY FORMS DELIVERED BY CONTRACTOR ARE HEREBY DEEMED TO BE MATERIAL ALTERATIONS AND NOTICE OF OBJECTION TO THEM AND REJECTION OF THEM IS HEREBY GIVEN.

BY COMMENCING PERFORMANCE PURSUANT TO THE SAI COMMUNICATIONS ("SAI") PURCHASE ORDER AND/OR OTHER SAI DOCUMENTATION, AS APPLICABLE, INCLUDING, WITHOUT LIMITATION, A SERVICES AGREEMENT, CONTRACTOR AGREES TO BE BOUND BY AND ACCEPTS THESE TERMS. THE TERMS OF THIS PURCHASE ORDER MAY NOT BE MODIFIED, SUPERSEDED OR AMENDED EXCEPT IN A WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF SAI.

**1. Application of Terms; Contractor Acknowledgment.** These Terms constitute a binding contract between SAI and Contractor. Contractor acknowledges agreement and acceptance of these Terms by commencing performance.

**2. Compliance with Contracts and Rules.** All services, labor, and materials to be performed or provided by Contractor shall be in strict accordance with the terms and conditions of this Purchase Order and, if applicable, that certain Services Agreement by and between SAI and Contractor (the "Services Agreement") and its related contract documents (which related contract documents consist of scope of work addenda, plans, specifications, general conditions, special conditions, SAI policies and procedures, addenda to any and all of the foregoing, and the contract or subcontract of SAI with wireless carriers, owners of real property or general contractors, as applicable). Without in any way limiting any of the other provisions of this order, Contractor shall, to the extent applicable to its services, labor, and materials herein, comply with and be bound by and liable for all the obligations of every kind and description undertaken by SAI under its contract or subcontract. Contractor shall comply with and be bound by all regulations, rules, interpretations, decisions, orders, and directions of federal, state, and municipal governments and agencies, and subdivisions thereof, and of the wireless carriers, owners and of the general contractor, and of all others authorized by the aforementioned principal contract and contract documents.

**3. Services and Performance.** No materials shall be released or work started until Contractor is notified by SAI by a "Notice to Proceed". Any services or work performed by Contractor prior to Contractor's receipt of a Notice to Proceed is unauthorized and is performed at Contractor's sole risk ("Unauthorized Services"). SAI is not obligated in any way to pay Contractor for Unauthorized Services and any subsequent payment made to Contractor for such Unauthorized Services is made in SAI's sole and absolute discretion and does not ratify or approve such Unauthorized Services. Any costs or expenses incurred by Contractor arising from the performance of Unauthorized Services are at Contractor's sole risk and SAI is not obligated to pay such costs or expenses.

**4. Work at Site.** When this order includes performance of services, installation or work at site, the following provisions apply:

- (a) All work, whether on or off site, shall be done in compliance with all laws, rules, ordinances and regulations of all federal, state or local political bodies having jurisdiction over the work, including, without limitation, all applicable Federal and State Environmental and Occupational Health and Safety laws and regulations;
- (b) Services shall be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as is reasonable and all equipment and tools provided will at all times be maintained in first class condition by Contractor and SAI reserves the right to require the replacement of any personnel or tools that do not comply with the foregoing provisions or the provisions of the Services Agreement, at Contractor's sole cost;
- (c) Certificates of insurance satisfactory to SAI must be furnished before work may be started.
- (d) Contractor shall comply with all requirements relating to SAI's policies and procedures, job procedures, formalities, payrolls, etc. (full details may be obtained at the job site).
- (e) Contractor assumes full liability for all taxes, including but not limited to sales, use, property, social security, unemployment, disability, income, withholding, etc., now or hereafter imposed by federal, state, or municipal governments, or any subdivision thereof.

**5. Proof of payment.** Upon request of SAI, Contractor shall furnish affidavits and instruments certifying that payment has been made for all labor, materials, and services furnished in the performance or filling of this order, releases and indemnities as required at the time for payment, and written guarantees with respect to the labor, materials, and services supplied by Contractor. These documents shall be in such form and substance as may be required by or from SAI.

**6. Status.** SAI shall have in relation to Contractor the same rights and immunities as the wireless carrier or owner have as to it, and Contractor shall have the same duties and be subject to the same restrictions in relation to SAI as it has to the wireless carrier or owner.

**7. Deliveries, Time.** Time is of the essence with respect to this Purchase Order. The price includes delivery of all materials F.O.B. job, freight and cartage prepaid, store door delivery, and at job locations the SAI will indicate, unless order specifies otherwise. If delivery of the goods or the performance of services is delayed beyond the time indicated herein for any reason including, without limitation, Contractor's insolvency, bankruptcy or assignment for the benefit of creditors, SAI reserves the right without liability (in addition to its other rights and remedies) to cancel this order by written or facsimile notice, or verbal notice confirmed in writing (which notice shall be effective when received by or communicated to Contractor) as to any services not rendered and to any of the goods not shipped, to purchase substitute goods elsewhere, and to charge Contractor with any loss incurred. Unless otherwise specifically agreed to by SAI, any provision for delivery of the goods in installments shall not be construed as making the obligations of Contractor severable. Shipment shall be properly packed and shipped only by licensed carrier over the least expensive route, unless otherwise instructed. Shipments F.O.B. Contractor's plant shall be released at a declared valuation of the true replacement value, and in no event shall such declared valuation exceed the maximum permitted under the carrier's least expensive rate schedule applicable to goods constituting such shipment. Contractor shall notify SAI at the time of shipping of the goods, together with a copy of the bill of lading or shipping document and the packing list applicable hereto. All such documents and correspondence shall refer to SAI's Purchase Order number. Packing lists must bear a complete description of the goods shipped.

**8. Price and Payment.** The entire amount of any and all of Contractor's costs, pricing, expenses and compensation must be specified in the Purchase Order. Prices, invoices or billing amounts submitted to SAI by Contractor shall not exceed the prices stated on the Purchase Order and must include an itemized breakdown for services, goods, taxes, and any other charges and expenses totaling the entire amount due. Written Change Orders (as defined in the Service Agreement) must be submitted by Contractor to SAI for any changes or unexpected costs and must be approved in writing by SAI prior to any costs being incurred. The prices stated include, among other things, packing, crating and transportation F.O.B. point shown. Contractor agrees that any price reduction applicable to the ordered goods subsequent to the order date but prior to delivery will be applicable to this Purchase Order. Contractor shall mail the invoice for the goods to SAI no later than

sixty (60) days after the final acceptance of the services and goods or, if no closeout documentation is required, within sixty (60) days of the day on which services are completed. Any cash discount period will date from SAI's receipt of the ordered goods or from the date of the invoice, whichever is later. Properly submitted invoices shall be due and payable forty-five (45) days after receipt by SAI, subject to verification of work performed or goods received as reflected in the invoice. SAI reserves the right to refuse any shipments sent C.O.D. and to dishonor any draft, and all goods attendant therewith are at Contractor's risk. Except for charges to taxes as provided herein below, SAI will not be responsible for any charge or modification in price not shown on the face of this Purchase Order without Contractor properly submitting a Change Order and receiving SAI's prior written consent to such charges or changes in advance.

**9. Termination.** SAI may, at any time, terminate this Purchase Order for its convenience, in whole or in part, by written notice or verbal notice confirmed in writing to Contractor. If so terminated, any claim of Contractor shall be settled on the basis of and limited to the reasonable cost incurred by Contractor prior to SAI's notice.

**10. Warranty Against Infringement.** Contractor guarantees control of all patented devices, processes, materials, trademarks, copyrights and equipment, used in performing or filling this order, either alone, or in combination with other materials, and further warrants that the goods do not infringe upon or constitute an unauthorized use of any patent, trade secret, copyright or other intellectual property right, and Contractor agrees to defend at Contractor's expense, all claims, suits, actions or proceedings, in law or equity, against SAI, its successors, assigns, customers and users of any of the goods or actual or alleged infringement or unauthorized use of any such patent, copyright, trade secret or other intellectual property right resulting from or arising out of the sale of the goods. Contractor further agrees to pay and discharge any and all judgments, decrees, penalties and settlements which may be rendered or reached in any and all such claims, suits, actions or proceedings against the SAI, its successors, assigns, customers and users.

**11. Quality Assurance; Indemnification.** Contractor warrants that the goods and products delivered pursuant to this Purchase Order are fit for the particular purpose for which they have been purchased by SAI and shall be of good materials and workmanship, free from defects, and shall conform to the specifications, drawings or samples specified or furnished to SAI (if any). This warranty shall survive any inspection, delivery, acceptance or payment by SAI. Contractor also warrants that all goods delivered hereunder shall be merchantable and fit for their intended purpose. In addition, Contractor agrees to indemnify SAI in respect of and, if SAI requires, to defend SAI against all liability, loss, damage, injury (involving any person or property and any action, claim, demand) and charge, cost and expense, including reasonable attorney's fees, internal processing costs, rework and remanufacturing costs, sustained by or incurred by SAI by reason of failure of the goods or services to conform to the warranties contained in this Purchase Order or breach by Contractor of any of Contractor's obligations under these Terms or negligence by Contractor or Contractor's employees or agents. Such indemnity shall be in addition to any other remedies afforded by law or contract.

**12. Defective Goods.** If any of the goods fail to comply with any term of this Purchase Order, Contractor shall promptly correct such discrepancy or replace such goods at Contractor's expense following notice of such discrepancy from SAI. If Contractor shall fail to so act within five (5) days of such notice, SAI may cancel this Purchase Order as to all such goods by giving Contractor notice, and in addition to its rights and remedies hereunder and at law and equity, SAI may, at its option, cancel the then remaining balance of this Purchase Order by notice and as to all or any part of the goods, purchase substitute goods elsewhere and charge Contractor with any loss incurred. After notice to Contractor of a discrepancy, all such goods will be held at Contractor's risk until the discrepancy is corrected or such goods are returned to Contractor. SAI may, and at Contractor's direction shall, return such goods to Contractor at Contractor's risk, and all transportation charges, both to and from the original destination, shall be paid by Contractor. Any payment made by SAI for such goods shall be refunded by Contractor, unless Contractor promptly corrects the discrepancy or replaces the goods at Contractor's expense.

**13. Inspection and Acceptance.** All goods are subject to SAI's inspection, testing and approval, both at Contractor's plant and at SAI's point of destination. SAI reserves the right to reject and refuse acceptance of any goods which do not comply with all the terms of this Purchase Order. Acceptance, payment, use or resale of the goods by SAI shall not release Contractor of any of Contractor's obligations, representations or warranties hereunder. Payment for any goods shall not be deemed an acceptance thereof.

**14. Fabrication and Material Commitment.** SAI shall not be responsible for any of Contractor's commitments for materials or fabrication in advance of the time necessary to meet delivery dates specified herein unless agreed to by SAI in writing in advance.

**15. Compliance with Law.** Contractor shall comply with the provisions of all applicable federal, state and local laws, regulations, rules and ordinances applicable to this Purchase Order and purchased goods including, without limitation, any fair labor standards or statutes and any statute or regulation regulating occupational safety and health. Contractor shall, following SAI's reasonable request, certify such compliance to SAI in writing.

**16. SAI's Property.** Unless otherwise agreed in writing, all drawings, specifications, tools, dies, molds, jigs, patterns, machinery, fixtures, equipment, software, Proprietary Information (as defined in Services Agreement) and any other property furnished to Contractor by SAI or paid for by SAI for use in the performance of this Purchase Order shall be and remain the sole property of SAI, subject to removal upon SAI's instruction, used only in filling orders from SAI, held at Contractor's risk, and kept insured by Contractor while in Contractor's custody or control. The insurance shall be in an amount equal to the replacement cost thereof, the loss payable to SAI.

**17. Taxes.** Except as otherwise provided, the prices stated do not include sales, use, excise or similar taxes applicable to the sale of goods. All such taxes and charges shall be shown separately on Contractor's invoice.

**18. Assignment.** Contractor shall not delegate any duties nor assign any rights or claims under this Purchase Order without the express prior written consent of SAI. Any assignment or delegation made without SAI's consent shall be null and void.

**19. Remedies.** No remedy provided herein shall be deemed exclusive of any other remedy available at law or equity. All claims for monies due or to become due from SAI shall be subject to deduction by SAI for set off or counterclaim arising out of this or any other of SAI's Purchase Orders to Contractor.

**20. Governing Law and Choice of Forum.** This Purchase Order is made under, and shall be governed, construed and interpreted by, and in accordance with, the laws of the Commonwealth of Massachusetts. Any dispute arising hereunder shall be resolved exclusively by litigation in applicable Massachusetts state courts or federal courts in the Commonwealth of Massachusetts, of proper and competent jurisdiction and venue. Each party hereto irrevocably consents to such jurisdiction for any and all purposes. Notwithstanding the foregoing, SAI may enforce this Purchase Order in any jurisdiction of its choice.

**21. Notices.** Any notice required or otherwise given pursuant to this Purchase Order shall be in writing and shall be hand delivered, mailed

certified mail, return receipt requested, postage prepaid or by recognized delivery service. Any notice to SAI shall be addressed as follows : Site Acquisitions, Inc., d/b/a SAI Communications, 27 Northwestern Drive, Salem, NH 03079. Any notices to Contractor shall be directed to the address of Contractor shown on the reverse side of this Purchase Order.