

## INFORMATION REGARDING THE RIA/THERMAPURE SETTLEMENT

*\*The purpose of this document is to summarize to RIA Member Firms the nature and purpose of the RIA/ThermaPure Agreement*

Dear RIA Member:

The accompanying documents will communicate concepts, procedures and documentation intended to guide Member Firms subsequent to the RIA/ThermaPure (TP) Settlement Agreement signed on July 7, 2014.

As a result of this mediated agreement dated June 25, 2014, TP covenants not to sue any RIA Member or Member Firm (in good standing with the RIA) for infringement of U.S. Patent 6,327,812 when the Member Firm does not heat ambient air inside a structure to a temperature in excess of 105°F. This agreement is ONLY for RIA Member Firms. While not stipulated in the agreement it is suggested that:

- Member Firms have all employees understand their company's official position on this matter. A suggested possible "COMPANY DIRECTIVE" accompanies this letter.
- Employees acknowledge by signature they received and understood the company's position and documentation relative to showing the Member Firm has remained within the Safe Harbor<sup>1</sup> created by the agreement.

A sample Job Summary is included which may be of assistance when reviewing job records. It is further suggested that a copy of each Job Summary be easily and readily accessed should allegations of patent infringement be made, preferably eliminating the need to go through each job file. Ambient air temperature readings should be taken and recorded within each atmospherically controlled work area.

For the purpose of this document, atmospherically controlled work areas can include the entire building envelope or specific portions of a structure, commonly identified as "drying chambers", "containments" or "isolation areas" etc. Tenting strategies designed with ventilation do not constitute a stand-alone atmospherically controlled work area as they are a portion of a shared atmosphere with the surrounding work area.

As long as there is any area within an atmospherically controlled work area which does not exceed 105°F, exclusive of tented areas, then the work area is deemed to be within allowable temperature limits and the ambient temperature threshold has not been exceeded. Individual air streams in excess of 105°F within an atmospherically controlled work area (such as equipment exhausts and HVAC systems) do not implicitly constitute a breach.

Ambient temperatures that naturally exceed 105°F are excluded from the terms of the Agreement as long as additional heating strategies are not implemented such as space

heaters. Such areas can include attics during summer and/or in warm climates or areas that are not air-conditioned. Since the Member Firm has not increased or produced this ambient air temperature they are not obligated to control or reduce it.

It is possible that the Member Firm might discover an ambient temperature in excess of 105°F due to reasons beyond the Member Firm's direct control. The RIA recommends that the Member Firm take necessary steps to reduce the ambient temperature to 105°F or less as expeditiously as possible if they wish to stay within the Safe Harbor. Such steps might include but are not limited to increasing the size of the atmospherically controlled work area to dissipate heat, reducing heat generating devices, adding air conditioning or power venting the atmospherically controlled work area. Ambient temperature spikes and corrective action(s) within atmospherically controlled work areas should be thoroughly documented.

Documentation of the Member Firm's projects can include written and electronic forms as well as photographic evidence. Ambient air temperature within the atmospherically controlled area(s) should be one of the measurements recorded. At a minimum, the lead technician(s) or project manager should sign and date the Job Summary Form / Incident Report (or similar document) after reviewing specific project temperature records and any corrective actions taken (if applicable). The Member Firm should keep such records for two (2) years.

Under the terms of the Agreement, it is advised that RIA Member Firms should contact TP at [thermapure.com](http://thermapure.com) or call 800-375-7786 for licensing information or the use of temperatures in excess of 105°F. It is advised that Member Firms should refrain from advertising the sanitization of structures using heat without the consent of TP.

Attachments:

- SUGGESTED COMPANY DIRECTIVE
- JOB SUMMARY FORM / INCIDENT REPORT

1. ***"Safe Harbor"** is a provision in an agreement that affords protection from liability or penalty under specified circumstances or if certain conditions are met.*

## SUGGESTED COMPANY DIRECTIVE

*The purpose of this document is to explain to the Member Firm's employees in simple, plain language the company's official policies and a clear directive in how to remain within the RIA / TP Safe Harbor<sup>2</sup> described within the Agreement.*

Our company directs all employees to never intentionally engineer ambient<sup>1</sup> temperatures that exceed 105°F throughout an atmospherically controlled area. "Engineer" means to plan or construct a work strategy. Therefore if we are heating a building, it is always best to have a thermostatically controlled cut-off switch to keep your defined atmospherically controlled work area no higher than 105°F. Our company will be keeping temperature records of ambient conditions on each project incorporating atmospheric controls for a minimum of two (2) years in order to comply with the agreement.

Employees are directed to measure "ambient" temperatures within all atmospherically controlled work area(s). Project managers or technicians will be responsible for defining all atmospherically controlled work area(s). Although temperature measurements will be taken and recorded outside the atmospherically controlled work area, the temperatures which are important are those within the atmospherically controlled work area(s). As an example, if a room such as a master bedroom is wet, the door to the master bedroom is closed and the HVAC system within the master bedroom is sealed off (thus isolating the master bedroom from the rest of the structural atmosphere), then the "master bedroom" becomes the designated work area or "chamber" and the ambient temperature from this area becomes the basis for Safe Harbor<sup>2</sup>.

On most projects including atmospheric controls, there are typically hot spots from heat generating equipment such as the output of a heater, refrigerant dehumidifier, or desiccant dehumidifier. As long as there is any area within the atmospherically controlled work area which does not exceed 105°F, the "not to exceed temperature threshold" has not been breached. For instance, if a dehumidifier output is 121°F, but the intake of the dehumidifier is 101°F, the agreement has not been breached.

I HAVE RECEIVED, READ AND UNDERSTAND THE ABOVE DIRECTIVE

EMPLOYEE NAME \_\_\_\_\_

EMPLOYEE SIGNATURE \_\_\_\_\_

SUPERVISOR \_\_\_\_\_

DATE \_\_\_\_\_

1. For purposes of this agreement, "**ambient**" means "any generally unobstructed atmosphere found within a defined chamber."
2. "**Safe Harbor**" is a provision in an agreement that affords protection from liability or penalty under specified circumstances or if certain conditions are met.

# JOB SUMMARY FORM / INCIDENT REPORT

*The purpose of this document is to provide the RIA Member Firm's project file with written evidence of procedures employed in managing an atmospherically controlled work area in the event of a file audit.*

JOB # \_\_\_\_\_ DATE \_\_\_\_\_ RIA MEMBER COMPANY \_\_\_\_\_

NOTE: DO NOT EXCEED 105°F AMBIENT AIR TEMPERATURE THROUGHOUT ANY ATMOSPHERICALLY CONTROLLED WORK AREA WITHOUT EXPRESSED WRITTEN PERMISSION FROM MANAGEMENT

Measurements are to be taken within the defined atmospherically controlled work area(s). Measure temperature where you work.

At the completion of the project or in the event the ambient temperature has exceeded 105°F, please answer the following questions.

YES    NO

    Did you intend to deviate from the company directive not to exceed 105°F?

    Did ambient conditions exceed 105°F *throughout* any atmospherically controlled work area? If YES, what steps were taken to control or correct: e.g. install temporary air conditioner, increase airflow into atmospherically controlled work area, take out equipment, etc.?

Measures taken to reduce heat e.g. (1) Add air-conditioning, (2) mix more outside cooler air, (3) power-vent, (4) reduce heat generating equipment or (5) other? If taken, explain:

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The undersigned declare that the above documentation is true and accurate.

Report generated by \_\_\_\_\_ Date \_\_\_\_\_

Corrective action taken by \_\_\_\_\_ Date \_\_\_\_\_

Witness \_\_\_\_\_ Date \_\_\_\_\_

Witness \_\_\_\_\_ Date \_\_\_\_\_

Project Manager \_\_\_\_\_ Date \_\_\_\_\_