



Standard Terms and Conditions

1. **Acceptance of Order.** These terms and conditions ("Ts&Cs") shall govern all sales by Vendor of any nature to Cornerstone Building Brands, Inc. and/or its subsidiary, affiliate, and/or any their unincorporated divisions (collectively, "Buyer") pursuant to any order, invoice, quote, purchase agreement, purchase order, or other confirming document ("Purchase Order"). These Ts&Cs shall supersede and apply without exception to any terms contained within any document issued by Vendor, the same being of no force or effect. Vendor unconditionally and irrevocably accepts these Ts&Cs. Any other terms are hereby waived and rejected and these Ts&Cs will remain in effect until such time as the parties hereto agree in writing and with reference to these Ts&Cs to replace same with a master sales and/or service agreement negotiated between the parties in writing. The shipment by Vendor of the Work described herein shall be conclusively deemed an unconditional acceptance of these Ts&Cs on the exact terms herein notwithstanding any provision in Vendor's documents or otherwise that such shipment is an accommodation and is being made pursuant to a conditional acceptance. If this document is determined to be an acceptance, the acceptance is expressly conditioned on Vendor's assent to all of the terms and conditions herein.
2. **Changes.** Buyer reserves the right, at any time and in its sole discretion, without liability to Vendor or any other party, to change the following: (a) product, material, goods, labor, work or services (collectively the "Work") to be performed or furnished hereunder, (b) drawings, designs and/or specifications applicable to the Work, (c) methods of shipment and packing, and/or (d) time, delivery and/or place of delivery or performance, including temporary or permanent suspensions of shipments. If any such change causes an increase in the cost, or the time required for performance, of the Work, Vendor agrees to minimize any increased cost and adjust its timing accordingly. Vendor shall make no changes in the Work called for by this Purchase Order without Buyer's prior written consent. Any changes in compensation due pursuant to any change order or addition to this Purchase Order are effective only if agreed to by Buyer's authorized representative in writing in advance of such change.
3. **Title, Completion, Delivery, Delays and Inspection.** Vendor warrants clear title to the Work when delivered, free from any and all liens or other encumbrances. Time is of the essence in the delivery of the Work under this Purchase Order. Buyer shall have the right to purchase substitute Work elsewhere and charge Vendor with any and all loss, cost and expense, including, but not limited to, attorneys' fees and costs incurred by Buyer as a result of not meeting any of the specifications or schedule requirements of the Purchase Order. Work shall not be delivered until Buyer's authorized representative has requested delivery in writing, and Vendor shall pay all costs and expenses arising out of any unscheduled delivery. Vendor will itemize and include all charges, for shipping, packaging, or otherwise, in the price quoted. Vendor is responsible for all transportation costs and will include same in the total price. Vendor is responsible for all additional costs related to the delivery of the Work, including but not limited to packaging costs, shipping costs, and other costs not included in the price in writing. All damages occurring prior to or during delivery will be charged to Vendor. Vendor will be responsible for the cost of inspecting rejected Work. Work not accepted will be deemed incomplete and will be rejected or returned to Vendor at Vendor's expense. Shipments sent C.O.D. without Buyer's advance written consent will not be accepted. All shipments shall be DDP Buyer's designated shipment destination. No insurance charge that increases shipping cost will be allowed unless authorized in advance in writing by Buyer. Vendor will prosecute and/or cure all claims regarding loss or damage to the Work during transit. All costs of storage of Work shall be borne solely by Vendor until Work is accepted, in writing, by Buyer.
4. **Invoices.** Invoices from Vendor must contain the information that follows: Vendor name, remit address, phone number, unique invoice number, invoice date, purchase order number (if applicable), item number, description of items, quantities, unit prices, extended totals, and any other information required by these terms or the Purchase Order. Invoices with supporting documentation that is insufficient to prove that the services were completed, accepted, and consistent with the payment terms in the Purchase Order will be rejected by Buyer and will not be paid. Payment of invoices will not constitute acceptance of the Work and will be subject to adjustment for shortages, defects, or Vendor's failure to comply with these terms. Invoices must be submitted by Vendor to Buyer within 90 days of completion of the services or receipt of the goods by Buyer, and Vendor's failure to do so will constitute a waiver by Vendor of any legal or equitable rights to demand payment for such Work.
5. **Payment.** Buyer will pay Vendor pursuant to the payment terms set forth in the Purchase Order. In the event payment terms are not specified, all payments will be made 60 days from the date the invoice is permanently entered into Buyer's accounts payable system after completion of the Work. If discount terms are specified in the Purchase Order, Buyer will determine in its sole discretion if discount is taken or not. If payment by installments is required at any time by Buyer, Vendor waives any right to accelerate the amount. Before Vendor shall be entitled to receive final payment under any Purchase Order, Vendor shall furnish evidence satisfactory to Buyer of the payment of any indebtedness for all materials and equipment used in the performance of the Work under the Purchase Order. Vendor shall not permit any lien or similar charge to be filed or asserted against the Work or any property of Buyer or Buyer's customers. Upon receipt of payment for any portion of the Work, Vendor hereby promptly releases and shall indemnify Buyer for all charges, claims, liability, liens or expenses associated with materials, products or services provided by Vendor in connection with such portion of the



Standard Terms and Conditions

Work.

6. **Advance Manufacture and Shipments.** Vendor agrees all Work is of commercial off-the-shelf products not manufactured in advance or otherwise identified to the Buyer and Buyer reserves the right to return any and all Work without charge to Buyer. All shipping containers shall bear Buyer's name and Buyer's order number. Detailed packing slips, including Purchase Order number and itemized list of Work is required. Buyer's records will be accepted as final and conclusive with respect to all shipments that are not accompanied by invoices or shipping documents indicating Buyer's Purchase Order number.
7. **Warranty.** Vendor expressly warrants that all Work furnished under this Purchase Order shall conform to all drawings, specifications and appropriate standards, will be new, and will be free from defects in material and workmanship. Vendor further warrants that all such Work will conform to any statements made on the containers or labels or advertisements for such Work and that all Work or goods will be properly contained, packaged, marked and labeled. Vendor warrants that all Work furnished hereunder (a) will be merchantable; (b) will be safe and appropriate for the purpose for which the Work of that kind is normally used, and (c) will not infringe or misappropriate any third party's intellectual property rights (including, without limitation, any patent, trademark, copyright or industrial design). Vendor warrants that it knows or has reason to know the particular purpose for which Buyer intends to use the Work furnished hereunder and warrants that all such Work will be fit for such particular purpose. Vendor warrants that all Work furnished hereunder will conform in all respects to any samples furnished to Buyer in connection with this Purchase Order. Vendor shall make no substitutions of Work furnished hereunder without the prior written authorization of Buyer. Work furnished hereunder shall be subject to inspection and written acceptance by Buyer and any governmental agency or authority having jurisdiction. Inspection, tests, acceptance or use of the Work furnished hereunder shall not affect Vendor's obligations under these warranties and such warranties shall survive inspection, tests, acceptance and use of the Work. Vendor's warranties shall run to Buyer, its successors, and assigns, and to all future owners of the property. Vendor agrees to promptly correct any defects in any of the Work furnished hereunder, without expense to Buyer, or, in the alternative, when such correction fails to bring such Work in conformance with the requirements hereof, to promptly replace such Work at Vendor's sole cost. In the event of Vendor's failure to promptly correct any defects in the Work furnished hereunder, Buyer, after five (5) days' notice to Vendor, shall have the right to make such corrections or to replace such Work and charge Vendor for all loss, cost and damages incurred by Buyer in connection with such correction or replacement.
8. **Services and Intangibles.** Unless otherwise noted in the Purchase Order, the Work itself, and any items, materials, data,

information and intellectual property developed or created by Vendor in providing the Work under this Purchase Order ("Work Product") is Buyer's property and all right, title, and interest, (including without limitation copyright interest), shall belong exclusively to Buyer. In the case of Work Product containing copyrightable subject matter, such items shall be considered works made for hire on behalf of Buyer. Vendor assigns all right, title, and interest to all Work Product, and the intellectual property rights therein, to Buyer. Vendor warrants that (a) it has the right and unrestricted ability to assign these rights and (b) the Work Product, and Buyer's use of the Work Product, does not and will not infringe upon any third party's intellectual property rights or any other proprietary rights. Vendor hereby agrees to indemnify and hold Buyer, its parents, affiliates, officers, directors, agents, employees, and customers harmless from and against any and all Claims (as defined below) resulting from any actual or alleged infringement.

9. **Prices.** If prices in effect at the date of acceptance of this Purchase Order are reduced prior to the date of delivery, or Vendor quotes lower prices to other buyers or purchasers before the date of delivery, then Vendor agrees to offer Buyer the same reduction or lower price. Except as stated in Paragraph 2 above, price increases are not permitted.
10. **Termination.** Buyer reserves the right, at any time and without liability to Vendor or any other party, to terminate this Purchase Order, any part hereof or any other order with Vendor solely for Buyer's convenience by written notice or verbal notice confirmed in writing. Further, Buyer may terminate this Purchase Order, any part hereof or any other order with Vendor for cause at any time and without liability to Vendor or any other party in the event: (a) of any default by the Vendor or if the Vendor fails to comply with any of the Ts&Cs of this Purchase Order; (b) of late deliveries or deliveries of Work that is defective or do not conform to the requirements of this Purchase Order; or (c) Vendor becomes insolvent by any test, is voluntarily or involuntarily adjudicated bankrupt, subjected to reorganization or rehabilitation under any Applicable Law, or appoints or suffers the appointment of a trustee, receiver or assignee for the benefit of creditors. In the event of termination for cause, Buyer shall have the right to withhold all payments that have become due to Vendor and all payments that may thereafter become due and to take possession of all drawings, equipment, services, materials and goods purchased by Buyer or belonging to Vendor relating to performance of the Work under this Purchase Order. Furthermore, this Purchase Order shall be construed as an assignment by the Vendor to Buyer of such drawings, equipment, services, materials, and goods belonging to Vendor. In addition, in the event of such termination for cause, Vendor shall be liable to Buyer for any and all damages, including, but not limited to, attorneys' fees and costs, incurred by Buyer by reason of Vendor's default and termination.
11. **Taxes.** Vendor is responsible for the collection and reporting of all applicable transaction taxes, such as sales, use, withholding,



Standard Terms and Conditions

value added, or similar taxes, and will remit such taxes to the appropriate taxing jurisdiction. Transaction taxes are in addition to established prices and will be shown as a separate line item on the invoice. If tax withholding is required by Applicable Law, Buyer will adhere to such tax withholding requirements and shall include such withholding in the Price as a separate line item. The term "Applicable Law" shall mean, without limitation, any law, statute, rule, regulation, code, order, or ordinance of the United States, or any state, municipality or political subdivision thereof, where any Work are manufactured, supplied, or provided hereunder as well as the law of any legal jurisdiction, including but not limited to any sovereign country, any state, province or other political subdivision or court thereof, any governmental agency, or authority of any country, including, without limitation, laws and regulations pertaining to import, export, re-export, taxes, sanctions, labor, wages, hours, the environment, anti-corruption, hazardous materials, human rights, and safety, where any Work is manufactured, supplied, or performed or services are provided. If this Purchase Order is marked "Resale," the Work purchased hereunder is purchased for purposes of resale and taxes shall not be charged to Buyer.

12. **Setoff.** Buyer shall be entitled at all times to setoff any amounts due and owing from Vendor to Buyer or any of Buyer's affiliates, subsidiaries or divisions against any amounts that may be otherwise due and owing to Vendor with respect to any Purchase Order governed by these Ts&Cs.
13. **Supplier Code of Conduct.** Vendor affirms that it has received and agrees to abide by Buyer's Supplier Code of Conduct and further agrees to immediately notify Buyer in writing of any violations or potential violations of said document in relation to work performed under this Purchase Order.
14. **Assignments and Subcontracts.** Vendor shall not assign or transfer this Purchase Order, or any rights or obligations hereunder, without the prior written approval of Buyer.
15. **Vendor's ESG Data.** Buyer is committed to continually working towards its ESG objectives and may request ESG-related data from Vendor related to the Work provided by Vendor to Buyer. Vendor acknowledges and agrees that, in the event that Vendor provides any of its ESG-related data to Buyer, Buyer may disclose and report on such data.
16. **Human Rights.** Vendor agrees that the Vendor and the Vendor's parent or subsidiary companies, affiliates and any of their subcontractors, suppliers, members, managers, directors, officers, employees, independent contractors, subcontractors or agents will comply with Buyer's [Human Rights and Labor Policy](#) found at [Cornerstone Building Brands - Sustainability - Social](#) and with all Applicable Law and regulations related to human rights, child labor and human trafficking.
17. **Anti-Corruption.** Vendor agrees that the Vendor and the Vendor's parent or subsidiary companies, affiliates and any of their subcontractors, members, managers, directors, officers, employees, independent contractors, subcontractors,

suppliers, or agents will comply with the U.S. Federal Corruption Prevention Act and all similar and related laws and regulations related to corruption prevention in the US and in any applicable jurisdiction. Vendor agrees to cooperate with Buyer in any effort to gather information for performing necessary background and anti-corruption checks and to take all reasonable actions to comply with Buyer's [Anti-Corruption Policy](#) found at [Cornerstone Building Brands - Sustainability - Social](#).

18. **California Transparency in Supply Chains Act.** Vendor agrees that the Vendor and the Vendor's parent or subsidiary companies, affiliates and any of their subcontractors, members, managers, directors, officers, employees, independent contractors, subcontractors, suppliers, or agents will comply with The California Transparency in Supply Chains Act, to the extent applicable.
19. **Hazardous Materials and Environmental Compliance.** Vendor shall notify Buyer of any Work that contains materials that are hazardous or could be injurious to the health or physical safety of persons, even though said hazard or injury may only occur due to mishandling or misuse of said Work. In addition, Vendor shall identify the hazardous or injurious material and notify Buyer of the effects of such material on human beings (including providing any applicable SDS) and the physical manifestations that could result for each article as identified. Vendor shall provide Buyer warning labels or instructional material appropriate to warn persons coming in contact therewith of the hazard(s) and its effects. Vendor further agrees that it shall be solely responsible for any and all hazardous substances introduced by Vendor in connection with the Work and shall perform all clean-up and removal of such substances. In the event Vendor does not perform such clean-up and/or removal, Buyer may perform clean-up and removal of such substances and Vendor shall reimburse Buyer for all costs and expenses thereof, including attorney's fees.
20. **Conflict Minerals.** Subject to Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and the rules and regulations of the SEC thereunder (together, the "Conflict Minerals Law"), Vendor hereby represents and warrants to Buyer that no Conflict Minerals will be contained in or necessary to the functionality or production of any of the products, parts, or materials delivered to Buyer under this Agreement. At no additional cost to Buyer, Vendor shall provide Buyer with such documents, information, and other evidence of the accuracy of the foregoing representation and warranty as Buyer may from time-to-time request. Vendor agrees to immediately inform Buyer in writing if it learns or has reason to believe that the foregoing representation and warranty is untrue with respect to any products, parts, or materials that have been delivered to Buyer hereunder. As used in this section and in the Conflict Minerals Law, the term "Conflict Minerals" means (1) columbite-tantalite (coltan), cassiterite, gold, wolframite, and their derivatives (which derivatives are currently limited to tantalum, tin, and



Standard Terms and Conditions

tungsten); and (2) any other mineral or its derivatives, the exploitation and trade of which is determined by the U.S. Secretary of State to be financing conflict in the Democratic Republic of the Congo or an adjoining country. Vendor also agrees to comply with Buyer's [Conflict Minerals Sourcing Policy](#) which is incorporated herein by reference and can be found at [Cornerstone Building Brands - Sustainability - Social](#).

21. Export / Import Compliance. Vendor shall comply with all applicable import/export/sanctions' laws and regulations in connection with the delivery of the Work. Without limiting the foregoing, (i) Vendor represents that it is not listed on any list published by the U.S. government of entities or individuals who are restricted from receiving U.S. services or U.S. items (including but not limited to the list of Specially Designated Nationals published by the U.S. Office of Foreign Asset Control) nor is it owned or controlled by any such listed entity; and (ii) Vendor shall not, and shall ensure that its suppliers and subcontractors do not, violate any export control/sanctions prohibition, regulation, or other restriction or cause any such violation to occur. The parties hereto acknowledge that certain materials to be provided hereunder and certain transactions hereunder may be subject to export controls under the laws and regulations of the United States, the EU and its member states, the UK, and other countries. Vendor will export or re-export any such items, information, or any direct product thereof or undertake any transaction in violation of any Applicable Law or regulations. Vendor agrees that all persons performing services, or otherwise working with controlled United States technology, will comply with applicable Export Administration Regulations (15 C.F.R. 730 et seq.) and that Vendor will obtain any required export license prior to assigning such personnel to perform export / import services. Vendor agrees that it will not source any items from or otherwise distribute, disclose, release or otherwise transfer any item or technical data provided under this Agreement to or from any country or region where the transaction would violate U.S. law. This clause will apply regardless of the legality of such a transaction under local law. Vendor agrees to cooperate fully with any background check Buyer deems necessary to ensure full compliance with all applicable import and export laws.

22. Non-Disclosure and Buyer's Property. All drawings, specifications, artwork, patterns, or information furnished by Buyer or developed by Vendor in connection with the Work and this Purchase Order or any other order shall be Buyer's personal property. If any Work relating to this Purchase Order is assigned to subcontractors, Vendor shall require a similar agreement from its subcontractors. Unless otherwise agreed in writing, all Work, tooling, tools, pattern equipment or material of every description furnished to Vendor by Buyer or paid for by Buyer, any replacement thereof, and any material affixed or attached thereto shall be personal property of Buyer. Such property shall be plainly marked or otherwise adequately identified by Vendor as Buyer's property and shall be safely stored separate and apart from Vendor's property. Vendor

shall not substitute any property for Buyer's property and shall not use such property except in filling Buyer's orders and shall adequately insure same at its expense for Buyer's protection. Vendor shall assume all liabilities for and maintain and repair such property and return the same to Buyer in its original condition, reasonable wear and tear excepted, when such property is no longer required hereunder. Such property is subject to removal and inspection by Buyer at any time without cost or expense to Buyer and Buyer shall have free access to Vendor's premises for the purpose of inspecting or removing such property. Buyer shall not be obligated to pay any invoices for tooling or Work until the first articles produced therefrom shall have been received and accepted by Buyer. In addition, all such property will be treated as confidential information and will not be subject to being reverse engineered or otherwise analyzed for the purpose of gaining any useful information not directly related to this contract.

23. Confidentiality.

a. Confidential Information: All Confidential Information will be held in strict confidence by Vendor and may be used by Vendor solely for the purposes of fulfilling the Work and other obligations under the Purchase Order. All such Confidential Information will be treated and protected by Vendor as strictly confidential, will not be disclosed to any third party without the prior written consent of Buyer, and may be disclosed within Vendor's organization or to any suppliers or subcontractors performing a portion of the Work only on a need-to-know basis as necessary to perform the Work. Vendor will not take any Confidential Information from its offices or worksites (or makes copies of them) without Buyer's written permission. For the purpose of these Ts&Cs, "Confidential Information" includes, without limitation; (a) the terms, facts, negotiations, and proposals of any agreement related to this Purchase Order; (b) information acquired by Vendor during any tours of Buyer's places of business and facilities; (c) information relating to Buyer's operations, products, business, and services, including, without limitation, all intellectual property (whether or not registered or registrable), product plans, ideas, or concepts, processes, specifications, designs, business, financial, marketing, and sales plans, names and expertise of employees and consultants, sales data and plans, marketing materials, contractual arrangements, customers, vendors, suppliers, financial statements, projections, and pricing information; (d) any information that is marked or identified by Buyer as confidential and proprietary; and (e) and other information that would reasonably be considered non-public, confidential or proprietary given the nature of the information and Buyer's business. Confidential information also includes, without limitation, copies, analyses, notes, summaries compilations, studies, and other materials which reflect or are generated from Confidential Information.



Standard Terms and Conditions

- b. **Required Disclosures:** If Vendor receives a subpoena, order, notice, or other legal process ("Demand") seeking disclosure of Confidential Information, Vendor will immediately notify Buyer in order to allow Buyer the opportunity to oppose the Demand or seek a protective order. If requested by Buyer, Vendor will fully cooperate in contesting such disclosure. Except as such Demand may be timely limited, quashed, or extended, Vendor may thereafter comply with such Demand, but only to the extent required by Applicable Law. Where Buyer obtains a protective order, nothing in these terms will be construed to authorize Vendor to use in any manner or disclose Confidential Information to parties other than the governmental or judicial agency or body or beyond the scope of the protective order.
- c. **Information Security:** Vendor shall implement and maintain appropriate technical, physical, and organizational measures to protect Confidential Information against unauthorized or unlawful processing and against unauthorized loss, destruction, damage, alteration, or disclosure. Vendor shall document such measures and shall allow Buyer to review such documents upon request.
- d. **Breach Notification:** Vendor shall notify Buyer in writing of any data breach involving Confidential Information as soon as Vendor discovers or is notified of such breach. Such notice shall include the nature and duration of the breach, the types and volume of Confidential Information impacted, steps Vendor has taken and will take to investigate, remediate, and mitigate the effects of the breach, and any other information reasonably requested. Vendor shall provide commercially reasonable assistance to Buyer in fulfilling any legal notification and/or reporting obligations and shall pay for all costs and expenses reasonably incurred by Buyer as a result of such breach.
24. **Indemnity.** TO THE FULLEST EXTENT PERMITTED BY LAW, VENDOR SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND BUYER AND ALL OF ITS AFFILIATES, PARENTS, OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSS AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES AND COSTS ("CLAIMS"), ARISING OUT OF OR RESULTING FROM OR ASSOCIATED WITH WORK, MATERIALS, PRODUCTS OR SERVICES PROVIDED BY VENDOR PURSUANT TO THIS PURCHASE ORDER, PROVIDED THAT ANY SUCH CLAIM, DAMAGE, LOSS OR EXPENSE (A) IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY INCLUDING LOSS OF USE RESULTING THEREFROM, AND (B) IS CAUSED IN WHOLE OR IN PART BY ANY FAILURE BY VENDOR TO COMPLY WITH ANY PROVISION OF THESE Ts&Cs OR ANY APPLICABLE LAW, OR ANY ACT OR OMISSION OF VENDOR OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY IT OR ANYONE FOR WHOSE

ACTS IT MAY BE LIABLE, OR IS CAUSED BY OR ARISES OUT OF THE USE OF ANY WORK, PRODUCTS, MATERIAL, OR EQUIPMENT FURNISHED BY VENDOR, REGARDLESS OF WHETHER IT IS CAUSED IN PART BY THE NEGLIGENT ACT OR OMISSION OF BUYER OR ANY OF ITS OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES, OR THE STRICT LIABILITY OF BUYER OR ANY OF ITS OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES. CONCERNING ANY AND ALL CLAIMS AGAINST BUYER OR ANY OF ITS AFFILIATES, PARENTS, OFFICERS, DIRECTORS, AGENTS OR EMPLOYEES BY ANY EMPLOYEE OF VENDOR, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY VENDOR, OR ANYONE FOR WHOSE ACTS VENDOR MAY BE LIABLE. THE INDEMNIFICATION OBLIGATION UNDER THIS PARAGRAPH SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS OR BY THE LIMITS OF ANY INSURANCE. VENDOR AGREES TO INDEMNIFY, DEFEND AND HOLD BUYER HARMLESS FROM AND AGAINST ANY LOSSES ON ACCOUNT OF, RELATED TO OR ARISING FROM THE PRESENCE OF ANY HAZARDOUS/TOXIC WASTE OR SUBSTANCE, KNOWN OR UNKNOWN, INTRODUCED BY VENDOR AS PART OF THE WORK OR OTHERWISE IN OR AROUND BUYER'S PROPERTY. VENDOR AGREES AND ACKNOWLEDGES THAT BUYER SHALL BEAR NO LIABILITY FOR WORK PERFORMED BY ANY SUPPLIER OR SUBCONTRACTOR SECURED AT VENDOR'S REQUEST OR FOR THE VENDOR'S BENEFIT AND FURTHER AGREES TO INDEMNIFY, DEFEND AND HOLD BUYER HARMLESS FROM ANY LIABILITY FOR ANY LOSSES (WHETHER CAUSED IN WHOLE OR IN PART BY BUYER'S NEGLIGENCE) CAUSED DIRECTLY OR INDIRECTLY BY SUCH SUPPLIER OR SUBCONTRACTOR. THE FOREGOING INDEMNITIES SET FORTH IN THIS AGREEMENT ARE INTENDED TO BE ENFORCEABLE AGAINST THE PARTIES HERETO IN ACCORDANCE WITH THE EXPRESS TERMS AND SCOPE HEREOF NOTWITHSTANDING TEXAS' EXPRESS NEGLIGENCE RULE OR ANY SIMILAR DIRECTIVE OF ANY OTHER STATE THAT WOULD PROHIBIT OR OTHERWISE LIMIT INDEMNITIES BECAUSE OF THE NEGLIGENCE (WHETHER CONCURRENT, ACTIVE OR PASSIVE) OR OTHER FAULT OR STRICT LIABILITY OF BUYER. IT IS AGREED WITH RESPECT TO ANY LEGAL LIMITATIONS NOW OR HEREAFTER IN EFFECT AND AFFECTING THE VALIDITY OR ENFORCEABILITY OF THE INDEMNIFICATION OBLIGATION UNDER THIS PARAGRAPH, SUCH LEGAL LIMITATIONS ARE MADE A PART OF THE INDEMNIFICATION OBLIGATION AND SHALL OPERATE TO AMEND THE INDEMNIFICATION OBLIGATION TO THE MINIMUM EXTENT NECESSARY TO BRING THE PROVISION INTO CONFORMITY WITH THE REQUIREMENTS OF SUCH LIMITATIONS, AND AS SO MODIFIED, THE INDEMNIFICATION OBLIGATION SHALL CONTINUE IN FULL FORCE AND EFFECT. VENDOR AND BUYER EXPRESSLY AGREE THAT, TO THE EXTENT REQUIRED BY APPLICABLE LAW TO BE EFFECTIVE, THE INDEMNITIES



Standard Terms and Conditions

CONTAINED HEREIN ARE "CONSPICUOUS."

25. **Insurance.** Vendor shall, at its sole expense, maintain insurance during the performance of the Work covered by this Agreement and thereafter, including General Liability Insurance with a per occurrence limit of not less than \$1,000,000 naming Buyer as an additional insured with respect to the performance of the Work. This insurance will include products liability and completed operations liability coverages, which will extend for three (3) years after the completion of the Work. Vendor agrees that its insurance coverages as required by this Agreement shall be primary to and not concurrent with any insurance coverages maintained by Buyer and that any such coverages maintained by Buyer shall in no way be implicated unless and until all available coverages required by this Agreement shall have been fully exhausted. In addition, Vendor hereby waives any and all rights of subrogation as against Buyer and agrees that it shall provide Buyer with Waivers of Subrogation by endorsement on its insurance policies with respect to the insurance coverages described herein.
26. **Audit.** Vendor and any suppliers and subcontractors performing Work hereunder will maintain books, records, and documents to ensure compliance with Applicable Law, compliance with Vendor's obligations under these terms, accurate billing of any charges incurred, and the quality of the Work provided hereunder. Such records will be retained by Vendor for four (4) years after completion of the Work and will be subject at reasonable times and upon reasonable prior notice to examination, inspection, copying, or audit by personnel authorized by Buyer and/or any third-party auditor designated by Buyer. Vendor will provide accurate reporting of all records and provide appropriate workspace at Vendor's facility in order to conduct such audits, at no cost to Buyer. In the event an audit indicates inaccuracies, overbilling, or other violation of these terms by Vendor resulting in a cost to Buyer, in addition to Buyer's right to recovery of such costs, Vendor will be responsible for the reasonable costs associated with such audit.
27. **Governing Law, Jurisdiction and Waiver of Jury Trial.** This Agreement and each Purchase Order shall be governed by and construed in accordance with the laws of the State of **NORTH CAROLINA**. Vendor, acting for itself and its successors and assigns, hereby expressly and irrevocably consents to the exclusive jurisdiction of the State and Federal courts located in **RALEIGH, WAKE COUNTY, NORTH CAROLINA**, for any litigation that may arise out of or be related to this Purchase Order or any other order. Vendor waives any objection based on forum non-conveniens or any objection to venue of any such action. **VENDOR HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND FULLY WAIVES ANY RIGHT TO TRIAL BY JURY TO THE EXTENT THAT ANY SUCH RIGHT NOW OR HEREAFTER EXISTS WITH RESPECT TO THIS AGREEMENT OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION HERewith OR THEREWITH.**
- VENDOR ACKNOWLEDGES AND AGREES THAT THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY SUCH PARTY AND IS INTENDED TO ENCOMPASS EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO TRIAL BY JURY WOULD OTHERWISE ACCRUE. BUYER IS HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS IRREVOCABLE WAIVER.**
28. **Modification and Miscellaneous Provisions.** The Purchase Order and Ts&Cs contain all of the agreements between the parties and no course of dealing or usage of trade shall be applicable. None of the Ts&Cs may be added to, modified, superseded, or otherwise altered except by Buyer's authorized representative and an authorized representative of Vendor. No act or omission of Buyer, including its acceptance of or payment for any shipment from Vendor, or any similar act, shall constitute an acceptance of additional or different terms in any of Vendor's documents or forms. Furthermore, no delay or omission by Buyer to exercise any of its rights or remedies with respect to this Purchase Order and Ts&Cs shall impair any such right or be construed as a waiver by Buyer. If any provision of this Purchase Order and Ts&Cs is found by a court of competent jurisdiction to be invalid or unenforceable in whole or in part, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions hereof in any jurisdiction, provided, however, if such invalid or unenforceable provision may be modified so as to be valid and enforceable as a matter of law, such provision shall be deemed to have been modified so as to be valid and enforceable to the maximum extent permitted by law. All rights and remedies granted herein to Buyer are in addition to those available at law or equity. The terms of this Purchase Order and Ts&Cs are intended by the parties as a final expression of their agreement containing all oral and written understandings between the parties relative to the performance of the Work under this Agreement.
29. **Attorneys' Fees and Expenses.** In the event Buyer prevails in the prosecution or defense of any claims in litigation or arbitration between the parties hereto, Vendor agrees to pay all attorneys' fees, expert and consultant costs, and all other reasonable and necessary expenses incurred by Buyer in such litigation or arbitration.
30. **Surviving Clauses.** The provisions of these terms relating to warranties, warranty remedies, indemnity, audit, and confidentiality will survive its termination or expiration.
31. **Force Majeure.** Except for the obligations of indemnity and confidentiality by Vendor, each party shall be absolved from the obligations under this Purchase Order when and to the extent that performance is delayed or prevented by reason of acts of God, flood, fire, explosion, war, riots, national or regional labor disputes, or embargo. The affected party shall, however, exhibit its best efforts to avoid or mitigate or remove



Standard Terms and Conditions

the cause or causes of its nonperformance as expeditiously as possible.

32. **Compliance with Laws.** Vendor expressly agrees to comply with and abide by, all Applicable Laws related to the performance of the Work, including but not limited to of the laws of the United States, the State of North Carolina and other applicable state or local law, including, but not limited to, OSHA, EPA and all rules and regulations now existing or that may be hereafter promulgated under and in accordance with any such law or laws.
33. **Affirmative Action.** **VENDOR SHALL ABIDE BY THE REQUIREMENTS OF 41 CFR §§ 60-1.4(A), 60-300.5(A) AND 60-741.5(A). THESE REGULATIONS PROHIBIT DISCRIMINATION AGAINST QUALIFIED INDIVIDUALS BASED ON THEIR STATUS AS PROTECTED VETERANS OR INDIVIDUALS WITH DISABILITIES AND PROHIBIT DISCRIMINATION AGAINST ALL INDIVIDUALS BASED ON THEIR RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, OR NATIONAL**

ORIGIN. MOREOVER, THESE REGULATIONS REQUIRE THAT VENDORS TAKE AFFIRMATIVE ACTION TO EMPLOY AND ADVANCE IN EMPLOYMENT INDIVIDUALS WITHOUT REGARD TO RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, NATIONAL ORIGIN, PROTECTED VETERAN STATUS OR DISABILITY. VENDOR AGREES TO COMPLY WITH ALL THE PROVISIONS SET FORTH IN 29 CFR PART 471, APPENDIX A TO SUBPART A (EXECUTIVE ORDER 13496).

34. **Performance Security.** Buyer shall have the right to require Vendor to furnish security covering faithful performance of the Work and other requirements in the Purchase Order in such form and amount as may be required by Buyer, and pursuant to such additional agreements or instruments as may be required by Company, including without limitation letters of credit, third party guaranties, escrow accounts, labor and material payment bonds and/or performance bonds and payment bonds.

SUBJECT TO CHANGE WITHOUT NOTICE
January 23, 2023