

## TERMS AND CONDITIONS OF PURCHASE

**1. Purchase Orders.** Buyer agrees to purchase, and Seller agrees to sell, solely on the terms and conditions of the purchase order Buyer submits to Seller (the “**Purchase Order**”) and these terms and conditions of purchase (“**Terms**”, and together with the Purchase Order, this “**Agreement**”), the goods (“**Goods**”) and/or services (“**Services**”) described in the Purchase Order. As used herein, the term “**Buyer**” means the entity issuing this Purchase Order as stated on the face thereof and the term “**Seller**” means the seller of the Goods and/or Services, as applicable. Seller shall deliver to Buyer a prompt written acknowledgment of each Purchase Order. Seller shall be deemed to have accepted a Purchase Order unless it delivers to Buyer a written rejection of the particular Purchase Order within five days after it receives the Purchase Order. All Purchase Orders shall be automatically deemed to incorporate these Terms, regardless of whether the Purchase Order references these Terms. To the extent the terms and conditions expressly stated in a Purchase Order conflict with these Terms, the terms and conditions expressly stated in a Purchase Order shall control. No term or condition of any order confirmation or any other document issued by Seller shall become part of the contract between the parties or bind Buyer. Buyer’s purchase of the Goods is expressly conditioned on Seller’s acceptance of the terms and conditions of the Purchase Order, including these Terms. Buyer objects to and rejects all different and additional terms and conditions in the order confirmation, invoice and other documents issued by Seller.

**2. Warranty.** Seller represents, warrants and covenants to Buyer, its customers and their respective successors and assigns that: (a) Seller shall deliver to Buyer good, exclusive and marketable title to the Goods free and clear of all liens, security interests, claims, and encumbrances; (b) the Goods shall be free from defects in materials and workmanship and shall comply fully with all final written descriptions, specifications, samples, and drawings provided to or by Buyer in connection with the issuance of the Purchase Order (including those specified in the Purchase Order); (c) no federal, state, local or foreign statute, law, rule, regulation or order will be violated in the manufacturing, selling or delivering of the Goods; and (d) all Services will be performed in a good and workmanlike manner and according to the highest applicable industry standards. Seller shall, at Buyer’s election, promptly repair, replace, or refund the purchase price for all Goods and Service that do not fully and strictly comply with this warranty. Seller’s obligation to repair or replace shall include the repair and/or replacement of any other materials affected in any way by the repair or replacement of the Goods or Services. Seller may, at its sole election, choose to repair or replace Goods and Services not strictly complying with this warranty through its own employees or through the employees of a third party, in which case Seller agrees (i) to reimburse Buyer, upon demand, for all costs and expenses incurred in repairing or replacing such Goods and Services, and (ii) that such actions will not affect, minimize or in any way obviate Seller’s warranty, indemnification or other obligations under this Agreement. Additionally, Seller hereby assigns to Buyer all third-party warranties with respect to the Goods and Services and expressly consents to the assignment of Seller’s warranty provided for under this Agreement and all other warranties applicable to the Goods and Services to Buyer’s customer(s) and their subsequent assignees.

**3. Delivery; Risk of Loss; Acceptance.** Unless the Purchase Order provides otherwise, (a) for domestic shipments, Seller shall deliver all Goods F.O.B. Buyer’s designated destination, and Seller shall bear all risk of loss with respect to the Goods until Buyer actually receives and accepts the Goods and (b) for international shipments, Seller shall deliver all Goods DDP (INCOTERMS 2020) Buyer’s designated destination. Time is of the essence with respect to the delivery of the Goods. Buyer shall have the right to inspect the Goods before accepting them. Buyer shall have a reasonable period of time, of at least ten (10) days, after it discovers a defect or nonconformity to reject the Goods or to revoke its acceptance of the Goods. If Buyer rejects the Goods or revokes its acceptance of the Goods, and Seller does not deliver conforming Goods on or before the delivery date specified in the Purchase Order, Buyer shall have the right, at Buyer’s election, to terminate all or a portion of the Purchase Order and to obtain a prompt refund from Seller of all payments Buyer has made with respect to that portion of the Purchase Order Buyer has terminated. Seller shall pay all costs Buyer incurs in (a) rejecting Goods or revoking its acceptance of Goods and (b) holding those Goods, making them available to Seller, or returning them to Seller. Seller shall comply with all of Buyer’s labeling requirements for the Goods. Seller shall maintain, repair, bear all risk of loss with respect to and return to Buyer on demand, all molds, tools, dies and equipment Buyer loans to Seller to allow Seller to produce the Goods (collectively, “**Buyer’s Property**”). Excess unauthorized shipments of Goods and shipments arriving in advance of scheduled delivery date may be returned at Seller’s risk and expense. Title to the Goods shall pass to Buyer on delivery of the Goods as specified in the Purchase Order. Seller agrees to provide to Buyer Safety Data Sheets (“**SDS**”) for Goods that has chemical ingredients. This SDS shall be in the format and contain the content required by The Hazard Communication Standard, 29 CFR 1910.1200(g), as revised from time to time, and shall provide specific minimum information as detailed in Appendix D of 29 CFR 1910.1200. SDS shall be provided to Buyer prior to the first shipment of applicable materials and products. SDS shall be updated periodically as Seller’s products are changed from time to time and communicated to Buyer concurrent with such changes. Seller will provide Buyer with any instructions or warnings for Goods as required by applicable law.

**4. Inspection.** Buyer shall have the right to place one or more inspectors in Seller’s facilities at any time to inspect the Goods, the manufacturing and assembling process for the Goods, all quality assurance and other records relating to the Goods and Buyer’s Property at no cost to Buyer. Neither the presence nor absence of an inspector or other personnel of Buyer in Seller’s facilities shall relieve Seller from any obligations under the Purchase Order, and Buyer’s failure to discover defects in the Goods shall not be deemed to be a waiver of those defects.

**5. Insurance.** Seller shall maintain until at least two years after Seller’s last delivery of Goods and Services to Buyer, and upon Buyer’s request shall promptly provide to Buyer certificates of insurance evidencing the requirements of this Section, the following insurance coverages: (a) workers’ compensation insurance with statutory limits and employer’s liability insurance with limits of at least \$1,000,000; (b) commercial general liability insurance having a combined single limit of at least \$5,000,000 per occurrence (this limit can be satisfied by both general liability and umbrella policies), including contractual liability, products and completed operations

liability, personal injury liability, and broad form property damage coverage; (c) comprehensive automobile liability insurance having a combined single limit of at least \$1,000,000 per occurrence, including coverage for owned, hired and non-owned automobiles. This insurance shall be primary and non-contributory for all purposes and shall contain standard cross liability provisions. All insurance policies other than workers' compensation and employer's liability policies shall be endorsed to add Buyer and its affiliates as an additional insured. Seller will make copies of the required insurance policies available to Buyer upon request of Buyer. Failure on the part of Buyer to request a certificate of insurance and/or additional insured endorsement shall have no effect upon the requirement to maintain the coverages required herein. All such insurance coverages shall include a waiver of subrogation in favor of Buyer and its affiliates.

**6. No Additional Charges; Audit.** Unless the Purchase Order expressly provides otherwise, the prices specified in the Purchase Order are the total prices of the Goods to Buyer, and Buyer shall not be responsible for any other charges, fees, taxes or expenses, including sales taxes. Seller shall maintain complete and accurate books and records of all materials, services and costs relating to the Purchase Order in accordance with generally accepted accounting principles for at least five years after Seller receives the final payment under the Purchase Order.

**7. Payment; Discounts.** Unless the Purchase Order expressly provides otherwise or Buyer has otherwise agreed in writing, Buyer shall pay all of Seller's invoices within 60 days after Buyer receives a correct invoice. Seller shall not send Buyer an invoice for Goods until those Goods are delivered to Buyer. All of Seller's invoices shall refer to the Purchase Order and contain its number. Any prompt payment discount Seller offers Buyer shall be determined using the date Buyer receives a correct invoice and not the date of any incorrect invoice. No fees, taxes, duties, tariffs, or charges of any kind, including charges for boxing, carting, packaging, freight, insurance or storage, will be allowed unless specifically agreed to by Buyer in writing. The prices charged to Buyer for the Goods shall be no higher or less favorable than any prices charged by Seller to any other customer of Seller purchasing substantially the same products as the Goods from Seller.

**8. Cancellation; Delay; Return.** Buyer shall have the right at any time, for any reason, including at its convenience, to cancel all or a portion of the Purchase Order, to delay the delivery date of some or all of the Goods, and to return any Goods to Seller (even if Buyer has already accepted the Goods) by giving Seller written notice and without increasing the price of the Goods. In exercising its rights under this Section, Buyer will not be liable for any costs, expenses, fees or liabilities of any kind, including re-stocking fees (collectively, "Fees") except that for any Goods returned under this Section for Buyer's convenience, Buyer will, as its sole responsibility, pay Buyer's costs to ship those returned Goods to Seller (but will not be responsible for any Fees, such as re-stocking fees). Buyer shall have the right to obtain a prompt refund from Seller of all payments Buyer has made with respect to any Goods that Buyer returns to Seller and for that portion of the Purchase Order Buyer terminates; alternatively, at Buyer's option, Buyer may set off the applicable refund amount against its next payment to Seller.

**9. Indemnification.** Seller shall defend, indemnify and hold harmless Buyer, its affiliates and its and their respective directors, officers, employees, agents, successors, and assigns from and against all claims, actions, demands, penalties, losses, judgments, damages, liabilities, obligations, costs, and expenses (including attorneys' and litigation costs) arising out of or relating to the Goods and Services supplied to Buyer under the Purchase Order, including any claim or allegation: (a) that the Goods or Services (including their labels, packaging and related materials ("Materials")), or their use by Buyer or its customers, infringe any patent, copyright, trademark, trade name, service mark, trade secret or other property right or contain inaccurate information or ratings; (b) any breach of warranty by Seller; (c) that the Goods or Services are defective; (d) that the Goods or Services (including the "Materials") failed to include instructions, warnings, restrictions, accurate descriptions or other materials that are required by, or otherwise necessary to comply with, any law, rule, regulation or ordinance applicable to the distribution, sale, offering for sale, installation, construction, use, labeling, packaging, chemical contents, registration or disposal of the Goods; or (d) that Seller, or its employees, contractors or other personnel, failed to comply with any applicable law. Buyer shall have the right, but not the obligation, to participate as it deems necessary in the handling, adjustment, or defense of any claim for which indemnification is sought by Buyer. If Buyer reasonably determines that a defense or defenses are available to Buyer that are not available to Seller and raising such defense or defenses would create a conflict of interest for the counsel defending the claim, Buyer will be entitled to retain separate counsel for the purpose of raising these defenses at Seller's expense. Seller will not enter into any settlement or compromise of the claim that would result in the admission of any liability by Buyer, any financial liability on the part of Buyer, or would subject Buyer to injunctive relief without first obtaining Buyer's prior written consent.

**10. Changes.** Seller shall not make any changes with respect to the Goods without Buyer's prior written consent, which may be given or withheld in Buyer's sole discretion. Without limiting the generality of the foregoing, without Buyer's prior written consent, the Seller shall not: (i) change the location at which Goods are manufactured, (ii) engage any subcontractors with respect to the Goods, (iii) alter the processes or procedures used by Seller in the production of Goods, (iv) alter the design, composition, fit, form, function or appearance of Goods, or (v) alter chemicals, raw materials or any components or ingredients used in production of Goods. Seller shall promptly provide written notice to Buyer of any of the following events or occurrences, or any facts or circumstances reasonably likely to give rise to any of the following events or occurrences: (a) any failure by Seller to perform any of its obligations under this Agreement; (b) any delay in delivery of Goods; (c) any defects or quality problems relating to Goods; or (d) any failure by Seller, or its subcontractors or common carriers, to comply with applicable laws or regulations. Seller agrees to give Buyer no less than 90 days prior written notice on all price, charge, tax and fee changes with respect to Goods. In the event the Consumer Product Safety Commission or other federal, state, provincial, or local law, regulation or order requires either Buyer or Seller to recall, replace, repair or make refunds with respect to all or part of any Goods, Seller shall do so and cooperate with Buyer, at Seller's expense (including, without limitation, reimbursements to Buyer for its expenses), in a reasonable manner.

**11. Conflict Minerals Compliance.** Pursuant to Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and rules promulgated by the Securities and Exchange Commission relative to “Conflict Minerals” (currently cassiterite, columbite-tantalite or coltan, wolframite (and their respective derivatives: tin, tantalum, tungsten and gold), regardless of their origin), Seller agrees to (a) disclose to Buyer whether any Conflict Minerals are necessary to the functionality or production of any product(s) delivered to Buyer under any Purchase Order or otherwise, (b) identify to Buyer whether any such Conflict Minerals originated in the Democratic Republic of Congo or adjoining countries or came from recycled or scrap sources, (c) provide to Buyer a description, in reasonable detail, of the measures it took to exercise due diligence on the Conflict Minerals’ source and chain of custody, and (d) otherwise provide such additional information and cooperation as Buyer may reasonably request in connection with the foregoing.

**12. Termination for Breach.** If Seller breaches any provision or obligation of this Agreement and does not cure that breach within ten (10) days after Buyer gives Seller written notice of the breach, Buyer shall be entitled: (a) to suspend its performance under the Purchase Order; (b) to terminate all or any portion of the Purchase Order and have no further obligation to Seller with respect to the termination; (c) to declare all or part of Seller’s obligations to Buyer under the Purchase Order immediately due and payable; and (d) to pursue any other right or remedy Buyer may have.

**13. Confidentiality.** Seller shall keep confidential, not disclose to any person or entity, and not use for any purpose other than fulfilling its obligations under this Agreement, Buyer’s property, any drawings, plans, specification, blueprints, designs, or other information Buyer furnishes to Seller regarding this Agreement or Buyer’s purchases, and all other information that Buyer designates as being confidential. Seller shall not use Buyer’s name or the fact that Seller is selling Goods to Buyer in any press releases, media statements or public communications or otherwise publicize this Agreement without Buyer’s prior written consent. Seller shall not use Buyer’s name, logos, trademarks, service marks, trade names or trade secrets in any way without Buyer’s prior written consent, and Buyer shall not be deemed to have granted Seller a license of, or granted Seller any rights in, any of the foregoing by issuing any Purchase Order.

**14. No Assignment.** Unless this Agreement expressly provides otherwise, Seller shall not assign, delegate transfer (including by operation of law) or subcontract all or any portion of this Agreement without the prior written consent of Buyer. Any such attempted assignment, delegation, or subcontracting without Buyer’s prior written consent shall be ineffective and void.

**15. Governing Law.**

(a) If Buyer is incorporated, formed or organized in the United States, the following shall apply: This Agreement and the transactions between Buyer and Seller hereunder are governed by and construed and interpreted in accordance with the laws of the State of Georgia without giving effect to its conflicts of law principles. Seller agrees that any action relating to or arising out of this Agreement or the transactions between Buyer and Seller shall be litigated in the Superior Court of Fulton County, Georgia, or the United States District Court for the Northern District of Georgia. Seller hereby consents to venue and submits to the personal jurisdiction of such courts. The United Nations Convention for the International Sales of Goods does not apply to any transaction and/or purchase of Goods between Seller and Buyer.

(b) If Buyer is incorporated, formed or organized in Canada, the following shall apply: This Agreement and the transaction between Buyer and Seller hereunder are governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without giving effect to its conflicts of law principles. Seller agrees that any action relating to or arising out of these Terms or the transaction between Buyer and Seller shall be litigated in the courts situated in the city of Toronto, and Seller waives objection to the venue of any proceeding in such courts or that such courts provide an inconvenient forum.

**16. Marketing.** Seller hereby grants to Buyer a non-exclusive, royalty-free right and license to use Seller’s trademarks and logos in Buyer’s advertising and promotional materials to truthfully represent that Buyer or its affiliates sells, distributes, uses and/or has available Seller’s goods or services.

**17. Miscellaneous.** The provisions of this Agreement that, in order to give proper effect to its intent, should survive termination of this Agreement, and the provisions pertaining to indemnification, insurance, warranties and confidentiality, shall survive the termination of this Agreement. Buyer shall have the right to conduct periodic reviews of Seller’s books and records to confirm Seller’s compliance with this Agreement. The remedies in this Agreement are cumulative and in addition to all rights and remedies at law and in equity. The parties may exercise their rights and remedies in any order or combination they choose. No delay in exercising or failure to exercise a right of remedy shall impair that or any other right or remedy or be construed as a waiver of any default. The term “including” shall not be limiting. This Agreement contains the entire agreement of the parties relating to the subject matter and supersedes all prior and contemporaneous agreements, understandings, usages of trade and courses of dealing, whether written or oral. Any rebate or similar volume incentive arrangement between Buyer and Seller shall be governed exclusively by a separate written rebate or incentive agreement executed by the parties, if applicable. In the event of any conflict between such agreement and these Terms, the rebate or incentive agreement shall control solely with respect to rebate-related matters. If Buyer advises Seller that Goods to be sold under the Purchase Order are being sold by Seller to Buyer pursuant to a subcontract or general contract for a United States Federal Government Contract, to which the terms and conditions of the Federal Acquisition Regulations (“FAR”) apply, Seller agrees to comply with all flow-through clauses of the FAR required under such contract. This Agreement may only be modified by a written agreement, signed by both parties, expressly modifying this Agreement. Seller shall comply with Buyer’s Supplier Code of Conduct (as amended from time to time), which forms part of the Agreement and can be found at <https://www.specialtybuildingproducts.com/corporatesustainability>. Buyer shall be entitled to set off against all amounts Buyer owes Seller all amounts Seller owes Buyer or its affiliates. Headings are for convenience only and shall be given no legal effect. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.