

"Terms and Conditions Applicable to Seller's Proposal and Incorporated by Reference"

1. Modification/Expiration. Seller reserves the right to modify or withdraw the Proposal for any reason. If not accepted, modified or withdrawn, the Proposal will expire after (30) calendar days.

2. Acceptance. Customer shall be deemed to have accepted the Proposal and be bound legally under the Proposal when the Proposal is signed by Customer or by directing Seller to commence the Work, as Work is defined in the Proposal. The Proposal expressly limits and is expressly made conditional upon Customer's acceptance of these exact Terms and Conditions Applicable to Seller's Proposal and Incorporated by Reference ("Terms and Conditions"), and notification of objection and rejection to any different or additional terms is hereby given by Seller to Customer. Any of Customer's terms different from or in addition to the Terms and Conditions, whether contained in any request for proposal, acknowledgement, release or other written document, shall not form a part of the Proposal or contract, even if Customer purports to condition its acceptance of the Proposal on Seller's agreement to such different or additional terms. In the event of any conflict between the terms of this Agreement and the terms of any purchase order or any other document issued by the Customer, the terms of this Agreement shall prevail. Under no circumstances will any of Customer's proposed terms and conditions become a part of the Proposal or the contractual relationship between Seller and Customer (the "Contract").

3. Incorporated Terms and Conditions. Seller and Customer acknowledge that the Terms and Conditions, as defined above, are incorporated by reference into Seller's Proposal. Customer assents to the Terms and Conditions being incorporated by reference and Seller and Customer expressly intend to be bound by them as part of their Contract.

4. Estimated Time for Completion of Work. All dates provided by Seller for commencement, progress or completion of Work or the delivery of materials are estimates only. While Seller shall use commercially reasonable efforts to meet such estimated dates, Seller will not be responsible for any damages for its failure to do so, including any form of liquated or delay related damages.

5. Contract Price. The Contract price ("Contract Price") will be as set forth in Seller's Proposal, subject to adjustment for cost increases to materials in accordance with the Terms and Conditions. In the event of material cost increases from the date of the Proposal until the date of delivery, Seller shall provide Customer in writing with the cost increase to the Contract Price and the parties shall sign a Change Order. All installation, shipping and other freight costs are not included in the Proposal amount and will be added to the Contract Price, if incurred by Seller. Seller will provide Customer with an estimate for those costs upon written request.

6. Payment. Customer shall pay twenty-five (25%) percent of the Contract Price prior to Seller commencing the Work. Such initial payment is non-refundable. Customer will also pay Seller the balance of the Contract Price prior to final shipment of materials or completion of the Work. Seller may invoice Customer for all material furnished, whether delivered to the project site or stored off site and for all Work performed. Credit card payments must receive prior

written approval by Seller and are subject to additional fees, which are in addition to the Contract Price. If for any reason the amount due under this Contract is not paid when due, Seller may suspend performance and the time for completion shall be extended for a reasonable period of time not less than the period of suspension. Customer shall be liable to Seller for all costs as a result of the suspension. A finance charge of 1.5% per month will be added to any past due balances. Seller shall be entitled to recover all costs incurred in having to collect the unpaid balance including, but not limited to, reasonable attorneys' fees, arbitration costs and interest allowed by law, and for otherwise enforcing the Contract, including these Terms and Conditions.

7. Changes to Scope of Work. Proposal is based on documents as provided to Seller and identified in the Proposal. Any revisions to the timing, quantities and/or scope of Work will be subject to equitable adjustments to the Contract Price. In the event Customer requests that Seller perform different or additional work and/or materials outside of the Work, and Seller agrees to perform the different or additional work, the Customer and Seller shall sign a change order reflecting an equitable adjustment to the Contract Price.

8. Force Majeure. If Seller is unable to carry out any material obligation under the Proposal and/or Contract due to an Event of Force Majeure, the Proposal and/or Contract shall, at Seller's election: (i) remain in effect but Seller's obligations shall be suspended until the Event of Force Majeure terminates; or (ii) be terminated upon 10 days' notice to Customer, in which case Customer shall pay Seller for all Work furnished or in progress to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of Seller that (i) impacts Seller's ability to perform its Work; or (ii) impacts the timing of Seller's Work.

9. Termination. Each of the following events or conditions below shall constitute a material breach by Customer and shall give Seller the right, without an election of remedies, to terminate the Proposal and/or Contract or suspend performance by delivery of written notice declaring termination, upon which event Customer shall be liable to Seller for all Work performed to date (including in progress Work) and all damages sustained by Seller. The events or conditions are: (i) any failure by Customer to pay amounts when due to Seller; or (ii) any failure by Customer to perform or comply with any material provision of the Contract, including these Terms and Conditions.

10. Indemnity. Seller and Customer shall indemnify and hold harmless each other from any and all claims, actions, costs, expenses, damages and liabilities, resulting from death or bodily injury or damage to real or tangible personal property, to the extent caused by their negligence or misconduct in connection with their activities within the scope of the Contract and these Terms and Conditions.

11. Waiver of Consequential Damages. In no event shall either Seller or Customer be liable to the other for consequential, special, exemplary, indirect or incidental damages, arising from or out of the Proposal and/or Contract, including, but not limited to, damages for loss of business, loss of financing, loss of profits, loss of bonding capacity, loss of reputation, insolvency or other similar damages (whether such damages are characterized as direct or indirect), including a breach of contract or warranty, tort (including negligence, strict liability or otherwise).

12. Limitation of Liability. Seller's aggregate liability for any and all claims, losses or expenses arising out of Work, the Proposal, or the Contract, or out of any goods or services furnished under the Contract, whether based in contract, negligence, strict liability, agency, warranty, indemnity or any other theory of liability, shall be limited to the total compensation received by Seller from Customer under the Contract.

13. Integration. The Contract and/or the Proposal, expressly including these Terms and Conditions, constitutes the entire, fully integrated agreement between Customer and Seller and all prior understandings, agreements or representations related to the Proposal or Contract are superseded. No modification or amendment of the Proposal and/or Contract shall be effective unless such modification or amendment is in writing and signed by both parties.

14. Dispute Resolution. In the event of a dispute or claim by or between Seller and Customer arising out of, or relating to, the Proposal and/or Contract (a "Claim"), Seller and Customer shall endeavor to reach resolution through good faith direct discussions between the parties' representatives, who shall possess the necessary authority to resolve such Claim. Such discussions shall be a condition precedent to the commencement of any arbitration proceeding by the parties. If the Claim remains unresolved after good faith direct discussions between the parties' representatives, the Claim shall be decided by arbitration using the current Commercial Arbitration Rules of the American Arbitration Association. The parties may mediate the matter by mutual agreement. The award rendered by an arbitrator shall be specifically enforceable in accordance with the governing arbitration law, and a court of competent jurisdiction may enter a judgment on the award of the arbitrator. The costs of any dispute resolution processes shall be borne by the non-prevailing party, as determined by the adjudicator of the dispute.

15. Choice of Law and Venue. The rights and obligations of Seller and Customer under the Proposal and/or Contract shall be construed and governed in accordance with the laws of the State of Michigan, excluding the conflicts of law principle. Any arbitration shall be administered by the American Arbitration Association (unless otherwise agreed to between the parties) and all hearings shall be held in Grand Rapids, Michigan.

16. Miscellaneous:

a. Final Truck Load Quantities. Final truck load quantities to be determined based on final Contract terms and delivery schedule.

b. Field Measurements. The cost and performance of field measurements are excluded from the Proposal, Work and/or Contract Price. Customer may request Seller to perform standard field measurements and Seller may provide Customer with a price to perform such work. The parties will sign a Change Order to confirm the scope of the work and the appropriate increase to the Contract Price. The field measurements are informational and are not a guarantee from Seller of any dimension, fit, or size of any materials. Customer shall be responsible for the design and fit/dimensions, unless otherwise specifically agreed in writing by the parties.

- c. Final Lead Times. Final lead times to be coordinated between the parties based on the materials manufacturing schedules and material availability.
- d. Design Drawings and Prints. Customer shall provide Seller with reasonable design drawings and prints, including, but not limited to, documents depicting the number of rooms, types of rooms, and any customized design elements.
- e. Shop Drawings. Seller will prepare shop drawings depicting its Work in general and submit drawings to Customer for review and approval. Seller will not commence Work unless and until Customer provides written approval of the shop drawings to Seller.