

Standard Purchasing Terms and Conditions

1. ACCEPTANCE: The earlier of Vendor's commencement of work on Ordered material or shipment of such material (or in the case of services, commencement of work or preparation thereof) shall be deemed an effective mode of acceptance of AWIP's offer to purchase contained in the AWIP purchase Order (the "Order"). Any acceptance of the express terms of the offer is contained in the Order and herein. Any proposal for additional or different terms or any attempt by Vendor to vary in any degree any of the terms of this offer in Vendors acceptance is hereby objected to and rejected, but such proposal shall not operate as a rejection of this offer (unless such variances are in the terms of the description, price, quantity or delivery schedule of the material or services) but shall be deemed a material alteration thereof, and this offer shall be deemed accepted by Vendor without said additional or different terms. If this Order shall be deemed an acceptance of a prior offer by Vendor, such acceptance is limited to the express terms contained in the Order and herein. Additional or different terms or any attempt by Vendor to vary in any degree any of the terms of this Order shall be deemed material and shall be rejected, however, this Order shall not operate as a rejection of Vendor's offer unless it contains variances in the terms of the description, quantity, price or delivery schedule of the material or services.

2. PAYMENT; TAXES; PACKING AND SHIPPING: Unless otherwise specified, the purchase price on the Order will include all packaging and delivery charges and all sales taxes (Federal, State, VAT, GST, HST, etc.) and excise, customs duties and fees, anti-dumping and countervailing duties, and similar fees and charges whether now in effect or hereafter enacted. No additional charges of any type shall be added without AWIP's express written consent. Payment will be made following receipt of and acceptance of the material or services and receipt, proper in form and substance, of documentation required by this Order. AWIP's Order, item number, material description, AWIP issued Vendor Number and Vendor's name must appear on all pack lists, containers, and invoices.

3. DELIVERY/PERFORMANCE SCHEDULE: Time is of the essence of this contract. Vendor shall follow the time and quantity schedule shown on this Order and shall not perform more than three (3) days earlier or zero days later than the time shown on the Order, or after 3:00 p.m. on any workday (delivery destination time). If Vendor performance violates the Order time and preceding tolerances, AWIP may return such material at Vendor's expense at AWIP's directions. In the event of Vendor's failure to perform per the time of the Order, AWIP reserves the right to cancel this Order in whole, or any part thereof, without prejudice to its other rights, and Vendor agrees that AWIP may return in whole or in part any shipment so made and may charge Vendor with any loss or expense sustained because of such failure to perform. Vendor shall notify AWIP if performance will be later than the Order time, and if premium shipping methods are required by AWIP, Vendor shall be liable for any premium costs incurred.

4. INSPECTION AND ACCEPTANCE: Payment for the material delivered hereunder or for services rendered shall not constitute acceptance thereof. No testing or inspection conducted by AWIP whether prior to or after placement of this Order, and nothing contained in this Order shall relieve Vendor from the obligation of testing, inspection, and quality control.

5. REJECTION: If AWIP, in its sole discretion, determines that any material or services do not conform with this Order or that the quantity supplied is greater than one hundred and ten percent (110%) of the Order quantity, AWIP shall have the right, at its sole option to reject the delivery in part or in whole, and seek damages to require correction, or accept the nonconforming material with an equitable adjustment in price.

6. CHANGES: By Delivery of written notice to Vendor, AWIP may make changes at any time in drawings, designs, materials, specification, packaging, delivery schedules, or methods or shipment or packaging on any item. If such changes result in an increase or decrease in cost, an equitable adjustment of price and delivery schedules will be made. Claims for equitable adjustment must be asserted by Vendor within ten (10) days of the date of the change Order, however, no such change will be acknowledged unless written confirmation of said change is received by Vendor from AWIP prior to the performance of the work called for.

7. AWIP'S PROPERTY: All tools, dies, jigs, patterns, drawings, specifications, photographs, equipment, material and other items or information purchased by, furnished by, charged to, or paid for by AWIP, and any replacement thereof shall remain the sole property of AWIP. Such property shall be clearly marked 'Property of AWIP Insulated Panels' and shall be safely stored at Vendor's expense apart from other property. Vendor shall not substitute other property for AWIP's property and shall not use such property except in fulfilling AWIP's Orders. Vendor shall hold such property at its own risk and upon AWIP's written request, shall redeliver the property to AWIP in the same condition as originally received by Vendor, reasonable wear and tear expected. AWIP may file informational financing statements against Vendor with respect to such property. Drawings,

specification, photographs and other engineering and manufacturing information supplied by AWIP shall remain AWIP's property, shall not be copied or otherwise duplicated or disclosed without AWIP's written permission, and shall be returned to AWIP upon completion of Order or upon demand.

8. WARRANTY: All material and services delivered hereunder shall be free and clear of all liens and encumbrances. Vendor warrants that all material or Services furnished under this Order shall be free from defects of design, material, and workmanship, shall be new, shall conform to all drawings and specifications and shall be of merchantable quality and will be safe and appropriate for the purpose for which material or services of that kind are normally used. If Vendor knows or has reason to know the particular purpose for which AWIP intends to use the material or services, Vendor warrants that the same will be fit for such particular purpose. Vendor warrants that material or services furnished will conform in all respects to samples, unless Vendor has agreed to a higher standard. Such warranties together with all other warranties and guarantees of Vendor, shall run in favor of AWIP and its direct and indirect customers. Vendor's descriptive literature and all statements made by Vendor shall be construed to be warranties. In the event of failure of Vendor to correct defects or replace nonconforming material or services promptly, AWIP, after reasonable notice to Vendor, may make such corrections or replace such material and services and Vendor shall be responsible for reimbursement of the cost incurred by AWIP in doing so.

9. INTELLECTUAL PROPERTY INDEMNITY: To the extent the subject material are not manufactured pursuant to design specified by AWIP, Vendor shall defend, indemnify, and hold AWIP and its agents and customers harmless from any loss, damage, expense (including reasonable attorney's fees) and liability (including costs of enforcing this indemnity) for infringement of patent rights or other rights with respect to such items, as well as for any alleged unfair competition resulting from similarity in design, trademark or appearance of material or services.

10. INTELLECTUAL PROPERTY ASSIGNMENT: Any intellectual property relating to the material or services and related equipment, including but not limited to patents, trademarks, copyrights, and trade secrets, developed by Vendor in connection with this Agreement shall be the property of AWIP, and Vendor hereby assigns and agrees to assign all such rights in the intellectual property to AWIP. AWIP shall have all rights incident to such ownership, (including all electronic and derivative rights) in all mediums of expression now existing or devised in the future and may utilize those exclusive rights in the USA, Canada, Mexico and throughout the world. Vendor shall execute any further documents necessary to carry out this Section 10 at AWIP's request, including without limitation such assignments of ownership and waivers of moral rights as AWIP deems necessary.

11. CERTIFICATION OF PRICE: Vendor certifies that the price or prices quoted by it for material or services to be furnished hereunder are not less favorable than those currently extended to any other customer for the same or similar material or services in similar quantities. If Vendor reduces its price for material or services in similar quantities during the term of this Order, Vendor agrees to reduce the price hereof correspondingly.

12. ASSIGNMENT AND SET-OFF: Vendor shall not assign or subcontract this Order or any part hereof or any right hereunder without AWIP's written consent. AWIP may set-off against amounts payable to Vendor hereunder or any claim or charge it may have against Vendor, whether arising out of this or any other transaction with Vendor.

13. RIGHT TO TERMINATE: AWIP may terminate this Order at its sole option at any time by notice in writing to Vendor, in which event Vendor shall immediately stop all work and observe any instructions of AWIP as to work in process. AWIP's sole responsibility to Vendor shall be to pay the contract price for material or services as have been delivered as of the time such cancellation is effective and to reimburse Vendor its actual costs of materials and direct labor expended by it in reasonable anticipation of its performance of this Order which are not recoverable by Vendor. In no event shall AWIP be responsible for any losses or damages incurred by Vendor arising from or related to any change in position of Vendor based upon Vendor's anticipated continued sales of material or services to AWIP.

14. BANKRUPTCY; DEFAULT: If Vendor becomes insolvent or makes an assignment for the benefit of its creditors, or if a petition in bankruptcy is filed with respect to Vendor, AWIP may by notice in writing, terminate this Order without liability except for items already delivered. AWIP may, by written notice of default to Vendor, terminate this Order in whole or part if Vendor fails to perform any of the provisions of this Order or so fails to make progress as to endanger performance of this Order in accordance with its terms. The rights and remedies of AWIP under this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Order.

15. COMPLIANCE: Vendor shall comply with all applicable laws and

rulings, regulations and Orders of duty authorized by authorities pertaining thereto, and shall upon AWIP request, furnish within ten (10) days from such request, certification of compliance with laws, rules and regulations that may be applicable to this Order.

16. HOLD HARMLESS: Vendor agrees to defend, indemnify and hold harmless AWIP and is agents and employees from all claims, liabilities, costs, expenses (including reasonable attorneys' fees) and damages of every description (including costs of enforcing this indemnity) during, arising out of, or connected with the performance of the Order, any defect in the material or services purchased hereunder, or from any act of omission of Vendor, its agents, employees or subcontractors. This indemnification is in addition to the warranty obligations of Vendor.

17. GOVERNING LAW: This Agreement shall be governed by and construed in accordance with the laws of the state of California, USA. The parties hereto submit to the jurisdiction in the Solano County in any action brought by the parties hereto concerning this Agreement or the performance thereof. The parties expressly waive any objection based on lack of personal jurisdiction or improper venue.

18. CONFIDENTIALITY: Vendor and its employees, agents, officers, and directors shall not disclose to any third party proprietary or confidential information provided by AWIP (including, without limitation, product or customer information, product forecasts or actual product demand) without the proper consent of AWIP.

19. LIMITATION ON AWIP'S LIABILITY, STATUTE OF LIMITATIONS, NO EXCLUSIVITY: In no event shall AWIP be liable for anticipated profits or for indirect, incidental, or consequential damages. AWIP's liability on any claim of any kind for any loss or damage arising out of or in connection with or resulting from this agreement or from the performance or breach thereof shall in no case exceed the price allocable to the material or services or unit thereof which gives rise to the claim. Any action resulting from any breach on the part of AWIP as to the material or services delivered hereunder must commence within two years after the cause of action has occurred. Nothing contained in this Order, and no course of dealing between the parties, shall obligate AWIP to buy all material of the type specified in the Order from Vendor, it being agreed and understood that any agreement with respect to exclusivity shall be expressed in writing and signed by both parties hereto. To clarify explicitly, the Order does not constitute a 'Requirements Contract'.

20. SUPPLEMENTARY INFORMATION: Any qualification plans, specifications, drawings, notes, instruction, engineering drawings, quality, packaging and marking requirements, notices, or technical data provided to Vendor in connection with this Order or referred to in this Order shall be deemed to be incorporated herein by reference thereto as if fully set forth herein. In case of any discrepancies or questions, Vendor shall refer to AWIP for decision or instructions or for interpretation.

21. ENTIRE AGREEMENT SEVERABILITY; NO WAIVER: The Order, the terms, conditions and provisions herein contained, and any documents attached or electronically linked, all engineering and manufacturing information (including forecast; and actual product demand) or any other documents referred to in the Order constitute the entire agreement between the parties (the 'Agreement'), which Agreement can only be modified in writing signed by authorized representatives of both parties. Any provisions of this Agreement prohibited by the laws of any city, county, province, territory, state, country, or court of proper Jurisdiction shall, as to such city, county, province, territory, state, or country, be ineffective exclusively to the extent of such prohibition and shall not invade the remaining provisions of the Agreement. Failure of AWIP to enforce any right under this clause shall not be deemed a waiver of any right hereunder.

22. SERVICES: Unless explicitly provided in writing to AWIP as an exclusion, and such exclusion acknowledged in writing by AWIP, Vendor shall furnish all labor, materials, tools, equipment, and do all things necessary to perform the work specified herein. If Vendor's work hereunder requires or contemplates performance or services by Vendors employees, or persons under contract to Vendor, to be performed on AWIP's property or property of AWIP's customers, Vendor agrees that all such work shall be done as an independent contractor and that the persons doing such work shall not be considered employees of AWIP. Vendor shall maintain all necessary insurance coverage, including public liability and workers' compensation insurance. Vendor shall indemnify and save harmless and defend AWIP from all claims or liabilities arising out of the work covered by this provision.

23. LANGUAGE: The parties hereto acknowledge that they have requested these terms and conditions and all documents relating thereto be drawn up in the English language.

24. The Supplier acknowledges that the Kingspan Supplier Policy is incorporated into the terms of this Supplier Agreement by reference and any failure on the part of the Supplier to observe the Kingspan Supplier Policy shall constitute a material breach of the terms of this Supplier Agreement.