

## TERMS AND CONDITIONS OF SALE

These terms and conditions constitute the full and final expression of the contract for sale of products by The Garland Company, Inc. ("Garland") to Buyer.

1. **ACCEPTANCE.** Buyer shall be bound by these terms and conditions when it places an order with or issues a purchase order to Garland, or when it accepts delivery of Garland products. These terms and conditions supersede all prior oral or written statements of any kind made by the parties or their representatives. Additional or inconsistent terms on Buyer's printed forms, including without limitation any purchase or confirmation order, shall not be binding unless expressly agreed to in writing, signed by both Garland and Buyer. These terms and conditions are subject to change at any time by Garland.

2. **PRICE.** All prices for products are set forth on a Garland Quotation ("Product Quote"). Prices are in U.S. funds. Buyer shall pay all charges for, and related to, transportation, delivery, storage, and handling, and any taxes imposed by a taxing authority arising from the sale, delivery, or use of the products. Buyer will not use Garland's name, trade or service marks, or trade dress in any way with regards to the products. Unless a different time is set forth in a Product Quote, a Product Quote is valid for 30 days from its date.

3. **INVOICES AND TERMS OF PAYMENT.** Unless otherwise agreed upon by the parties in writing, payment terms shall be net forty-five (45) days from the invoice date – 1.5% 10. Any amounts not paid by such date shall incur finance charges equal to the lesser of 2% per month or the maximum amount allowable by the law, plus any reasonable legal or collection fees. The foregoing notwithstanding, Garland may from time to time demand: (i) different terms of payment, including (but not limited to) full cash payment prior to shipment, whenever Garland in its sole discretion, determines that Buyer's financial condition or credit requires such different terms; and (ii) assurance of Buyer's ability to pay whenever it reasonably appears that such ability is in doubt. If Garland, in its sole discretion, determines that the financial condition or credit of Buyer at any time warrants that the shipment of items ordered should be held due to the financial condition or credit of Buyer, or where Buyer has not paid any Garland invoice when due, Garland may, at its option, terminate any order outstanding without liability to Garland. Garland may charge Buyer for the cost of any partially completed items then in process.

4. **DELIVERY.** Unless otherwise agreed upon by the parties in writing, all shipments shall be shipped Ex Works Garland's facility. Buyer shall remain bound by the terms of price and payment regardless of any loss or damage after such tender of delivery, as defined above, provided that Garland shall reasonably cooperate with Buyer in Buyer's pursuit of claims for loss or damage against any liable third party. Shipments will only be insured upon Buyer's prior request and at its expense. The products shall be packaged in accordance with reasonable commercial practice for domestic shipment. Shipping dates are approximate and depend on Buyer's prompt submission of all necessary information. Garland shall not be liable for any delay in delivery or failure to manufacture due to causes beyond its reasonable control. In the event of any such delay, the date of delivery shall be extended for a period equal to the time lost by reason of the delay.

5. **CANCELLATION BY BUYER.** Once accepted by Garland an order is not subject to cancellation, except where Buyer gives reasonable advance written notice to Garland to stop work, and Buyer, along with said notice, pays Garland for all work in progress and any materials or supplies used (or for which commitments have been made by Garland in connection with the order) plus all costs and expenses otherwise incurred by Garland in the production and delivery of the products as computed in accordance with Garland's general accounting practices. No products shall be returned to Garland without the prior written approval of Garland's Corporate Office in Cleveland, Ohio. Buyer shall be responsible for all transportation, delivery, handling, and other charges related to the return of products to Garland's original shipping facility, and all returns will also be subject to a 15% restocking fee.

6. **INSPECTION.** Buyer assumes full responsibility for the inspection of all shipments when received. Buyer shall notify Garland in writing if any items delivered hereunder do not conform to specifications. Such notice shall be provided as soon as possible after delivery but in no event later than five (5) days after such delivery. If requested by Garland, Buyer shall return such nonconforming items to Garland within five (5) days of such request. If Garland does not receive notice of any nonconforming items from Buyer within five (5) days after delivery, the shipment shall be deemed to have been accepted and approved by Buyer without qualification. Upon verification by Garland of nonconformance to specifications of any timely returned items, Garland shall either, at Garland's sole option, replace or refund the purchase price of such nonconforming items.

7. **WARRANTY AND LIMITATION OF LIABILITY.** Garland warrants that the products manufactured by it will conform to the applicable Garland specifications and be free from failure due to defects in workmanship or material for the period of the applicable product warranty. To the extent Garland provides any services in conjunction with the sale of its products for which there is no charge additional to the product pricing ("Included Services"), Garland disclaims all warranties related to such Included Services and Buyer acknowledges that such Included Services do not constitute architectural, engineering, or other professional services and are provided "as is" and "with all faults." Buyer further acknowledges that: (i) Buyer, and not Garland, is solely responsible for complying with applicable project requirements (including architectural and engineering), specifications, general conditions, supplemental conditions, drawings, timelines, means and methods of performance and other necessary or incidental requirements relevant to the applicable project or Buyer's performance thereunder ("Project Requirements"), and (ii) any Included Services are informational in nature, are not intended to (and do not) assume any of Buyer's responsibilities in connection with the Project Requirements, and are not intended to (and do not) confer any rights to Buyer against Garland related to such services whether in contract, in tort (including for negligence or strict liability) extra-contractually or otherwise. All warranty claims must be made in writing and conform to the process set forth in the applicable product warranty.

THE FOREGOING WARRANTIES ARE EXCLUSIVE EXCEPT FOR WARRANTIES OF TITLE. GARLAND HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. UNDER NO CIRCUMSTANCES, WILL GARLAND BE LIABLE IN CONTRACT, IN TORT (INCLUDING FOR NEGLIGENCE OR STRICT LIABILITY)

EXTRA-CONTRACTUALLY OR OTHERWISE, FOR PERSONAL INJURY OR PROPERTY DAMAGE, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF PRODUCTS, COST OF CAPITAL, OR ANY OTHER LOSS, DAMAGE, COST OF REPAIRS OR FOR INCIDENTAL, PUNITIVE, SPECIAL, CONSEQUENTIAL, OR LIQUIDATED DAMAGES OF ANY KIND, ARISING IN CONNECTION WITH THE DESIGN, MANUFACTURE, SALE, TRANSPORTATION, INSTALLATION, USE OR REPAIR OF THE PRODUCTS SOLD BY GARLAND. BUYER HEREBY ACKNOWLEDGES AND AGREES THAT UNDER NO CIRCUMSTANCES, AND IN NO EVENT, SHALL GARLAND'S LIABILITY, IF ANY, EXCEED THE NET SALES PRICE OF THE PRODUCT(S) IN QUESTION. THE REMEDIES OF THE BUYER SET FORTH IN THESE TERMS AND CONDITIONS ARE EXCLUSIVE AND ARE BUYER'S SOLE REMEDIES FOR ANY FAILURE OF GARLAND TO COMPLY WITH ITS OBLIGATIONS.

8. AUTHORITY OF GARLAND'S AGENTS. No agent, employee, or representative of Garland has any authority to bind Garland to any affirmation, representation, or warranty concerning products sold or services unless an affirmation, representation or warranty made by an agent, employee, or representative is specifically included in a writing that is executed by a duly authorized officer of Garland.

9. INDEMNITY AND INSURANCE. Buyer shall indemnify, hold harmless and release Garland from and against any loss, liability, claims, suits and costs: (i) to the extent caused by the conduct of Buyer or anyone acting on its behalf, including any nonperformance or nonfulfillment of any agreement or undertaking on the part of Buyer hereunder or anyone acting on its behalf; or (ii) caused by, arising out of, or related to the design of any items supplied hereunder (including, without limitation, liability for patent and trademark infringement) if such items are made in compliance with Buyer's design or specifications; or (iii) caused by any use not specified by Garland. Buyer will name Garland as an additional insured on all policies covering liability for (a) bodily injury, (b) property damage, (c) personal and advertising injury, (d) products/completed operations, (e) ongoing operations, (g) professional services, or (h) builder's risk, caused by or that arise out of (in whole or in part) Buyer's acts or omissions in the handling, disposal, or installation of the products sold hereunder or Buyer's acts or omissions in the performance of work on any project on which the products sold hereunder are handled, disposed of, or installed. With the exception of claims permitted under Paragraph 8 herein, Buyer releases Garland, its officers, directors, employees, agents, and representatives from all claims, demands, costs, and liabilities of all kinds relating to the products sold hereunder or the Included Services.

10. EXCUSE FOR NONPERFORMANCE. Garland shall not be liable for any loss or damage as a result of any delay in rendering, or inability to render, performance hereunder due to causes beyond its reasonable control, including (but not limited to) strikes, work stoppages, labor or raw material shortages, fires, floods, accidents, explosions, riots, pandemics or epidemics, war or acts of God, delays in transportation, or restrictions imposed by any federal, state, or municipal law or regulation. Garland shall have the right, in the event of the happening of any of the above contingencies, at its option, to cancel any purchase orders without any resulting liability, and Buyer shall pay for any delivery not in dispute regardless of other controversies relating to other delivered or undelivered items.

11. TITLE AND LIEN RIGHTS. Any items sold pursuant hereto shall remain personal property, regardless of whether they are affixed to Buyer's real property, and Garland reserves (and Buyer hereby grants to Garland) a purchase money security interest in such items until the purchase price has been fully paid. Buyer agrees to promptly execute any documents requested by Garland which are necessary for attachment and perfection of its security interest and to take any other action deemed necessary or desirable by Garland in order to perfect and/or protect Garland's security interest hereunder. Garland shall have all the rights of a secured creditor. Buyer shall not setoff any amounts due Garland from any amounts that may be due Buyer.

12. BUYER'S FINANCIAL STATUS. If Buyer files or has filed against it a petition under bankruptcy or similar laws providing for its reorganization or liquidation, becomes insolvent or makes an assignment for the benefit of creditors, Garland may, at its option, terminate any order of, or agreement with, Buyer by giving to Buyer a written notice and Garland shall thereupon be relieved of any further obligations to Buyer. In addition to payment for goods delivered, Buyer shall reimburse Garland for its reasonable termination costs.

13. MISCELLANEOUS. Buyer expressly acknowledges that this Agreement shall be construed according to the laws of the State of Ohio. Buyer consents to the jurisdiction and venue of any court of general jurisdiction in Cleveland, Ohio, with respect to any proceedings arising out of these terms & conditions or the performance hereof. All of the provisions of these terms & conditions are separate and severable. If any provisions of these terms & conditions are held invalid or unenforceable such invalidity or unenforceability shall not affect the validity or enforceability of the other portions hereof. Buyer expressly agrees that, where permitted by law, Buyer shall be liable for all reasonable expenses, court costs, and attorneys' fees incurred by Garland in enforcing its rights and remedies against Buyer hereunder. No right obligation or interest in these terms & conditions shall be assigned by Buyer without the written consent of Garland. These terms & conditions shall be binding upon and enforceable against and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns. No waiver or any breach of any provision hereof shall constitute a waiver of future compliance therewith, and such provision as well as the other provisions hereof shall remain in full force and effect. All stenographic or clerical errors are subject to correction.