



Standard Terms & Conditions of Sale

1. **DEFINITIONS.** "Seller" shall mean FREW PROCESS GROUP, LLC, an Indiana limited liability company. "Buyer" shall mean any party who contracts to purchase Goods from Seller, as indicated on a purchase order or an order acknowledgement. "Goods" shall mean those goods and/or related services ordered by Buyer from Seller pursuant to a purchase order accepted by Seller.
2. **WHOLE & BINDING AGREEMENT.** All quotations, proposals, negotiations, and representations, if any, regarding this transaction and made prior to the date of this acceptance are merged herein. Buyer expressly acknowledges that the terms of this document shall be binding and that these terms do not materially alter the transaction contemplated between Buyer and Seller. Seller's willingness to engage in this transaction is conditional on the Buyer's acceptance of these terms. Such acceptance is expressly made conditional on the Buyer's assent to any additional or different terms contained herein.
3. **PAYMENT TERMS.** Standard Payment Terms are due in full within 30 days of Seller's invoice date (Net30). A Buyer may be eligible for alternative standard payment arrangements by working with the Seller's credit department. Likewise, alternative payment arrangements may be set on any order. It is the Buyer's responsibility to validate the payment terms on every proposal, quotation or order acknowledgement to ensure Buyer. If any concern exists with these payment terms, then they **MUST** be addressed in the manner discussed herein (see TERMS CHANGE REQUESTS). All orders are subject to the terms of any letters of credit associated with the order.
4. **INTERNATIONAL PAYMENT TERMS.** For any Buyer whose invoice address or shipping address associated with an order falls outside of the legal jurisdiction of the United States of America, all monies due shall be paid in full and considered final prior to the release of Goods' title to Buyer or Buyer's agent.
5. **PAST DUE ACCOUNTS.** Buyer's failure to make payment when due will be a material breach of the order and these Terms and Conditions of Sale. Amounts unpaid after such date shall bear interest at the legal rate from the date of the invoice, not less than one and one-half percent (1.5%) per month, or eighteen percent (18%) per annum. Seller shall be entitled to recover all costs of collection, including attorney fees, in the event of nonpayment in the event Seller institutes collection efforts against Buyer.

Seller shall be entitled to reimbursement from Buyer for all costs and fees, including reasonable attorneys' fees, incurred by Seller in the collection of any overdue amounts. Seller, at its sole option and without incurring any liability, may suspend its performance – including by not limited to any and/or all engineering, manufacturing, delivery or administrative efforts – until such time as any overdue payment is made or Seller receives assurances, adequate in Seller's opinion, that the payment will be promptly made. In the event of such suspension of performance by Seller, there will be an equitable adjustment made to the remaining delivery schedule and order pricing to reflect the duration and cost resulting from such suspension. Buyer may only suspend the order upon Seller's written consent. In the event of such Buyer suspension, the delivery time will be changed, taking into account the suspension, and Buyer will promptly pay Seller for all costs, including related overhead costs, resulting from such suspension.

If Buyer breaches or is otherwise in default under the order acknowledgement or under any other contract between the parties hereto, Seller may further treat the default as a repudiation by Buyer of the Order in its entirety, resell the Goods and hold Buyer liable for such damages as Seller may incur, including consequential and incidental damages. For purposes hereof, Buyer's insolvency shall be a default.
6. **CREDIT APPROVAL.** All orders are subject to credit approval and the language of any applicable letters of credit acceptable to the Seller's credit department.
7. **CONTROLLING TERMS & CONDITIONS.** Buyer's Terms and Conditions, preprinted or otherwise, included in any subsequent purchase order not discussed, mutually agreed upon or unsigned will not be relevant to the order. Seller's *Standard Terms and Conditions of Sale* as presented here and any specific terms presented in the Buyer's proposal or quotation will control.
8. **NO ACCEPTANCE.** Seller's performance under any Buyer purchase order or order acknowledgement does not constitute an acceptance of any provision of any Buyer purchase order that is different from or additional to the Seller's Standard Terms and Conditions of Sale, and any such different or additional provisions are hereby expressly rejected and are void.
9. **INTEGRATION.** The Seller's order acknowledgement, packing slip and these Standard Terms and Conditions of Sale supersede all prior negotiations, representations, agreements, quotes and catalogues, whether written or oral, and shall not be modified, supplemented or interpreted by evidence of course of dealing, course of performance or usage of trade. To the extent the provisions hereof conflict with any prior or subsequent agreement of the parties, these *Standard Terms and Conditions of Sale* will control. In no event shall Buyer's terms and conditions control.
10. **LEAD TIME ESTIMATES.** Any lead time provided for delivery of Goods provided herein may only be considered an estimate and may not be considered a guarantee, unless explicitly stated as such using the words "GUARANTEED LEAD TIME". If and when such a guarantee is provided, an explicit and clearly visible set of terms must be established and stated next to the "GUARANTEED LEAD TIME" statement to explain how any failure to satisfy such a guarantee is to be handled by and between Buyer and Seller. Should a sale be made without establishing these terms, and in this explicit manner, then the guarantee is to be considered null and void. And, for all practical purposes, the stated lead time then becomes an estimate.
11. **GOODS HELD BEYOND DELIVERY DATE.** Goods held in factory beyond delivery date for convenience of the Buyer will be invoiced on date of completion and terms of payment will apply from invoice date. Such goods will be subject to changes for warehousing and other expenses incidental to such delay.
12. **CUSTOMER CREDITS.** Any credits issued by Seller must be applied by Buyer to another purchase, or a written request from Buyer for a cash disbursement of said credit, must be received within 180 days of the credit's date of issuance by Seller; otherwise, this credit shall be forfeited by Buyer. If any credit issued is intended to pay in part or whole for replacement Goods, then the credit is not eligible for cash disbursement to Buyer until it has been used to pay the Seller's invoice for the replacement Goods.
13. **PRICES SUBJECT TO SELLER'S COST NOT CHANGING.** The prices stated herein are subject to any advance in the Seller's cost occurring prior to the date of shipment of the goods or the performance of said services.
14. **FREIGHT COST CHANGES.** If transportation charges from point of origin of shipment to a designated point are included in the prices herein specified, any changes in such transportation charges shall be for the account of the Buyer, and the Seller shall not be responsible for switching, spotting, handling, storage, demurrage or any other transportation or accessorial service, nor for any charges incurred therefore, unless such charges are included in the applicable tariff freight rate from shipping point to the designated point.
15. **FORCE MAJEURE.** Seller shall be free from any liability for delay or failure in shipment arising from strikes, lockouts, labor troubles or any kind, accidents, perils of the sea, fire, earthquake, civil commotion, terrorist acts, war or consequences of war, government acts, restrictions or requisitions, failure of manufacturers or suppliers to deliver, bankruptcy or insolvency of manufacturers or suppliers, suspension of shipping facilities, act or default of carrier or any other contingency of whatsoever nature beyond Seller's control affecting production, transportation to boarding point, loading, forwarding or unloading at destination of the Goods, including disturbances existing on the date of the order acknowledgement. In such a situation, if shipment or delivery is not made during the period contracted for, buyer shall accept delivery under the

order acknowledgement when shipment is made; provided, however, Buyer shall not be obligated to accept delivery if shipment is not made within reasonable time after cessation of the aforementioned impediments or causes.

16. **FAILURE TO TAKE DELIVERY.** If Buyer fails to accept tender of the Goods, or any part thereof, the Goods not accepted shall be held at Buyer's sole risk in all respects. Seller, acting as Buyer's agent and at Buyer's expense, may thereafter store, insure and/or otherwise protect such Goods or may resell same for Buyer's account. The availability date(s) quoted are based on Seller's best estimate of a realistic time when the Goods will be tendered, and are subject to confirmation at time of acceptance of any resulting order.
17. **REJECTION OF GOODS.** A rejection of the Goods for non-conformity, or a claim of shortages and/or damaged material by Buyer, shall not be effective unless it is made, and written notice thereof is given to Seller, on the date the Goods are tendered. Written notice of rejection of Goods shall be delivered to Seller. Seller reserves the right to inspect the rejected Goods and to determine lack of conformity in its sole discretion.
18. **SHIPMENT.** Unless otherwise explicitly stated, all Goods are sold Ex Works (EXW) and shall tender the Goods at the manufacturer's dock, unless being sold from Sellers inventory. All costs of transportation, including without limitation, taxes and standard insurance, shall be borne by Buyer. All risk of loss shall pass to Buyer when the goods are made available EXW. In case of loss or damage in transit, or failure to receive shipment within a reasonable time, the Buyer should immediately notify carrier's agent in writing. Delivery and acceptance shall not be affected by a delay on the part of Buyer in accepting delivery. Shipment of Goods held by reason of Buyer's request or inability to receive Goods will be at the risk and expense of Buyer. Claims for shortages shall be deemed waived by Buyer unless made in writing to Seller upon tender.
19. **TAXES AND FEES.** Any tax imposed by federal, state or other Governmental authority on this transaction or on the sale of the Goods referred to in this Acceptance whether imposed upon the Seller or the Buyer, shall be paid by the Buyer in addition to the purchase price. Unless expressly stated and agreed to in writing by Seller, quoted prices do not include shipping and handling charges, commissions, sales, use, excise or similar taxes or duties. Buyer shall pay these taxes directly if the law permits or shall reimburse Seller if Seller is required to collect and pay them.
20. **MANUFACTURER'S WARRANTY CONVEYS.** The manufacturer's warranty for each product purchased shall convey to the benefit of the owner. No warranty extension, in terms of both duration or scope of coverage, is being extended herein. If additional detail is requested, it shall be provided.
21. **LIMITED WARRANTY.** In connection with any sale by the Seller to the Buyer of the goods described herein, the Buyer shall have only those express and implied warranties given the Seller by the manufacturer of said goods to the extent said warranties are assignable to the Buyer by the Seller, and no other warranties, a copy of which manufacturer's warranties are assignable to the Buyer by the Seller, and no other warranties, a copy of which manufacturer's warranties, if any, are transmitted to the buyer herewith.

THE SELLER MAKES NO WARRANTY EXPRESS OR IMPLIED: AND ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WHICH EXCEEDS THE FOREGOING IS HEREBY DISCLAIMED BY THE SELLER AND EXCLUDED FROM ANY AGREEMENT MADE BY ACCEPTANCE OF AN ORDER PURSUANT TO THIS QUOTATION. UNDER NO CIRCUMSTANCES SHALL THE SELLER BE LIABLE FOR PROSPECTIVE OR SPECULATIVE PROFITS, OR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES.

This limited warranty shall not extend to any Goods that have been modified, disassembled, altered, changed, damaged, misused, repaired, misapplied or negligently maintained in any manner.
22. **LIMITATION OF REMEDY.** The sole and exclusive remedy of the Buyer for any liability of Seller of any kind, including (a) warranty, express or implied, whether contained in the terms and conditions hereof or in any terms additional or supplemental hereto, (b) contract, (c) negligence, (d) tort, or (e) otherwise is limited to Seller's repair or replacement, EXW, of those Goods the examination of which by Seller reveals material defects during the warranty period or, at Seller's option, a refund to Buyer of the money paid to Seller for such Goods.
23. **GOODS DESCRIPTIONS.** All designs and specifications shown in the Seller's catalogs are subject to change without notice. Shipping weights and dimensions given in the Seller's catalog are as close to actual as practicable but are not guaranteed. No claims will be allowed because of any discrepancy between actual weights or dimensions of material shipped and listed data.
24. **BUYER-INITIATED CANCELLATION.** The Buyer's purchase order to which a Seller's Order Acceptance is directed cannot be cancelled by the Buyer except upon payment to the Seller of reasonable cancellation charges, which charges shall include, but shall not be limited to, expenses already incurred and commitments made by the Seller, provided, however, in no event shall such cancellation charges be less than fifteen (15) percent of the total amount of the purchase price of the Goods to which said cancellation relates. Except as otherwise expressly provided in the Seller's order acknowledgement, the Order shall be cancelled by Buyer only by mutual written consent of both parties.
25. **SELLER-INITIATED CANCELLATION.** The Seller shall have the right to terminate the Buyer's purchase order to which a Seller's Order Acceptance is directed in the event the Buyer fails to perform any of its obligations with respect to said sale of Goods. Such right of termination shall be in addition to and not in lieu of any rights or remedies which the Seller may have in law or in equity. If Buyer is in default by failure to pay any previous invoice within credit terms at the expected date of shipment of the Goods or any part thereof, or if Seller has received any adverse credit information about Buyer, Seller may delay shipment and/or cancel the unshipped balance of the Goods without liability. In the event of U.S. or foreign government intervention, trade restrictions and/or quotas, which may delay or prevent delivery of the Goods or any part thereof, Seller, at Seller's option may cancel the unshipped balance of the Goods without liability. In the event any of the Goods shall become subject to any governmental fees or duties not presently in effect or to any increase in any existing fee or duty, including any antidumping duty or countervailing duty, Seller shall have the right to cancel the unshipped balance of the Goods without liability.
26. **TERMS CHANGE REQUESTS.** Buyer has the option to object to these terms of sale by objecting in writing. Any objections must be clearly stated and noted as specific to a particular Sales Quotation provided to Buyer by Seller. Failure to so object – in writing and in the manner stated – constitutes waiver of the right to object to the terms of this document. All objections must be negotiated *prior to* delivery of Buyer's Purchase Order to Seller. Any accepted modifications to the terms of sale will be acknowledged by the Seller in writing and designated to tie to a specific Sales Quotation. These written modifications to the terms of sale will expire with the expiry date on the noted Sales Quotation and MUST be attached to any Buyer's Purchase Order submitted to the Seller for the aforementioned Sales Quotation if the Buyer desires to affect the sales transaction by a modification to these standard terms of sale.
27. **CREDIT CARD FEE.** Any payments to be made by credit card shall be subject to a 4% fee. If the customer clearly states that a purchase is to be paid in this manner when the Sales Quotation is prepared, then an *estimated* credit card transaction fee may be included in the stated Sales Quotation. Regardless, the *actual* credit card fee shall be calculated using the total monies owed – including any other ancillary charges, such as Shipping & Handling – as shown on the Sales Invoice(s) being paid by credit card.
28. **DEFECTIVE PARTS.** Seller agrees to repair or replace parts proven defective within the guarantee period. Seller must be given the opportunity to make repairs or replacements before any back charges will be accepted. Repairs and replacements from our works will be EXW our warehouse or subvendor's facilities. Finished materials and accessories purchased from subvendors are warranted only to the extent of the original manufacturer's warranty to Seller.
29. **INDEMNIFICATION.** Both Purchaser and Seller agree to be responsible for their own negligence and willful misconduct, and to protect, indemnify, defend and hold the other Party and that Party's affiliates harmless from and against any and all claims, demands, causes of action, suits or other litigation related to the responsible Party's negligence and willful misconduct.
30. **SELLER'S LIEN.** Until the unpaid contract price and any other amounts payable by Buyer to Seller under the order acknowledgement are paid in full, Seller shall have a lien on the Goods for the unpaid amounts. Buyer hereby grants to Seller a security interest in the Goods to secure payment of such amounts.

31. SHIPPING METHOD IN ABSENTIA. In the absence of specific written shipping or routing instructions from the Purchaser, the Seller may select method of shipment and routing. Cost of prepaid shipments will be substantiated by non-receipt copies of the freight bill.
32. RETURNS. Returns are not allowed without Seller's prior WRITTEN consent. In most cases, a return material authorization (RMA) number will be issued, either from the Seller or Seller's factory in order to tie the returned materials to specific set of actions to be taken when the materials are received. Should the RMA number not be provided and prepared with the returned Goods package per Seller's instructions, the returned Goods may not be processed in a timely fashion.
33. PURCHASE OF MATERIAL. Upon receipt of verbal or written purchase order from Purchaser, Seller may proceed with purchase of material as required, unless Purchaser has specifically given other instructions or Seller has explicitly stated an alternative project schedule.
34. LIMITATION OF LIABILITY. UNDER NO CIRCUMSTANCES SHALL SELLER OR ITS SUBVENDORS BE LIABLE TO BUYER FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES, OF ANY NATURE WHATSOEVER, ARISING FROM NONCONFORMITY OF GOODS, DEFECTIVE GOODS, OR DELAY IN SHIPMENT, OR ANY OTHER BREACH BY SELLER. Under no circumstances will Seller and its subvendors aggregate total liability exceed the value of the purchase order.
35. STANDARD VENDORS. Scope of supply is based upon manufacturer's standard and named vendors, whichever applies. If a project vendor list is provided, then a revision to this quotation may be required.
36. LIMITED WAIVER. Waiver by the Seller of a breach of any of the terms or conditions of the contract of sale between the Buyer and the Seller shall not be construed as a waiver of any other breach.
37. NO ASSIGNMENT. Buyer acknowledges that no purchase order or order acknowledgement, nor the obligations represented thereby, may be assigned or delegated, in whole or in part by Buyer, without the prior written consent of Seller. Buyer's unauthorized attempt to assign or delegate any rights or obligations shall serve as grounds for termination of the order.
38. SEVERABILITY. The Parties agree that each and every paragraph, sentence, clause, term and provision of these Terms and Conditions of Sale is severable and that, in the event any portion hereof is adjudged to be invalid or unenforceable, the remaining portions shall remain in full force and effect to the fullest extent permitted by law.
39. GOVERNING LAW & VENUE. The contract of sale relating to the Goods reflected on a Seller's Order Acceptance and any transaction involved herein between the Buyer and the Seller shall be governed by and construed in accordance with the laws of the State of Indiana, United States of America, without regard to the United Nations Convention on International Sales of Goods. Notwithstanding the foregoing, all terms and conditions herein relating to transportation costs and risks shall be governed by Incoterms 2010.
 - a. Any *domestic* dispute arising over this transaction that is not amicably resolved, including collection efforts, and results in litigation shall be filed in the Superior Court of Hamilton County, Indiana, United States of America.
 - b. Any *international* dispute arising over this transaction that is not amicably resolved, including collection efforts, will be referred to, and finally determined by, binding arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce in force at the time. The arbitration panel shall consist of three arbitrators. The place of arbitration shall be Indianapolis, Indiana, United States of America. The language to be used in the arbitration shall be English. The arbitration decision shall be final and binding upon the parties and any award granted pursuant to such decision may be entered forthwith in any court of competent jurisdiction. This arbitration clause and any award rendered pursuant to it shall be governed by the United Nations Convention of the Recognition and Enforcement of Foreign Arbitration Awards signed in New York on 10 June, 1958.