

## PURCHASE ORDER TERMS AND CONDITIONS

### 1. Applicability.

- (a) These terms and conditions of purchase (these "**Terms**") are the only terms that govern the purchase of the goods ("**Goods**") and/or services ("**Services**") by Rectorseal, LLC, a Delaware limited liability company. ("**Buyer**") from the seller ("**Seller**") named on the purchase order accompanying these Terms (the "**Purchase Order**"). If a written contract signed by both parties is in existence covering the sale of the Goods and/or Services otherwise covered by these Terms, the terms and conditions of such contract shall prevail to the extent they are inconsistent with these Terms.
- (b) The Purchase Order and these Terms (collectively, this "**Agreement**") comprise the entire agreement between the parties, and supersede all prior or contemporaneous discussions, understandings or agreements, both written and oral. These Terms prevail over any of Seller's general terms and conditions of sale, regardless of when or if Seller includes such terms in a sales confirmation or otherwise. This Agreement expressly limits Seller's acceptance of the Purchase Order to acceptance of these Terms. For the avoidance of doubt, Seller's fulfillment of this Purchase Order constitutes acceptance of these Terms.

### 2. Delivery of Goods and Performance of Services.

- (a) Seller shall deliver the Goods in the quantities and on the date(s) specified in the Purchase Order or as otherwise mutually agreed in writing (the "**Delivery Date**"). If any delivery is threatened to be delayed, Seller shall promptly provide notice to Buyer's purchasing department of such delay or threatened delay. If Seller fails to deliver the Goods in full on the Delivery Date, Buyer may terminate this Agreement immediately by providing written notice to Seller, and Seller shall indemnify Buyer against any losses, claims, damages, and reasonable costs and expenses directly attributable to Seller's failure to deliver the Goods on the Delivery Date. In the event of termination pursuant to this paragraph, Buyer shall have the right, in addition to any other rights and remedies conferred by law or under this Agreement, to procure goods and/or services similar to those terminated, and Seller shall be liable to Buyer for any excess costs for such similar goods and/or services.
- (b) Seller shall deliver all Goods to the address specified in the Purchase Order (the "**Delivery Point**") during Buyer's normal business hours or as otherwise instructed by Buyer. Seller shall pack all goods for shipment according to Buyer's instructions or, if there are no instructions, in a manner sufficient to ensure that the Goods are delivered in undamaged condition. Seller must provide Buyer prior written notice if it requires Buyer to return any packaging material. Any return of such packaging material shall be made at Seller's risk of loss and expense.
- (c) Seller shall provide the Services to Buyer as described and in accordance with the schedule set forth on the Purchase Order and in accordance with these Terms.
- (d) Seller acknowledges that time is of the essence with respect to Seller's obligations under this Agreement and the timely delivery of the Goods and/or Services, including all performance dates, timetables, project milestones and other requirements.

3. **Quantity.** The quantity of Goods ordered shall not change without Buyer's written consent. Buyer shall make exceptions for quantity changes caused by reasonable and customary conditions of loading, shipping, packaging or allowances in the manufacturing process, on condition that such changes shall not exceed 10% (above or below) of the quantity ordered. If Seller delivers a quantity of Goods less than 90% or more than 110% of the quantity ordered, Buyer may (but is not required to) reject any or all Goods, which shall be returned to Seller at Seller's sole risk and expense. In any event, if Buyer accepts Goods at quantities different from the quantity ordered, the Price (defined below) shall be adjusted on a pro-rata basis.

4. **Shipping Terms.** Delivery shall be made in accordance with the Purchase Order. For all shipments of Goods, the Purchase Order number must appear on all shipping documents, shipping labels, bills of lading, air waybills, invoices, correspondence and any other documents pertaining to the Purchase Order. Palletized Goods shall be identified by marking on each side of the pallet.

5. **Title and Risk of Loss.** Except as otherwise provided in this Agreement, Seller retains all title and risk of loss of all Goods, work in process and other property of either party used in the performance of the Purchase Order, and the same shall pass to Buyer only upon delivery of the Goods at the Delivery Point.

6. **Inspection and Rejection of Nonconforming Goods.** Buyer has the right to inspect the Goods on or after the Delivery Date. Buyer, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods reasonably determined to be nonconforming or defective. If Buyer rejects any Goods, Buyer has the right, upon written notice to Seller, to: (a) rescind this Agreement in its entirety; (b) accept the Goods at a reasonably reduced price; or (c) require replacement of the rejected Goods. If Buyer requires replacement of the Goods, any Goods rejected will be held for disposition at the expense and risk of Seller, and Seller shall, at its expense, promptly replace the nonconforming or defective Goods and pay for all related expenses, including, but not limited to, transportation charges for return and delivery of replacements. If Seller fails to timely deliver replacement Goods, Buyer may replace them with goods from a third party and charge Seller the cost thereof and terminate this Agreement for cause pursuant to Section 17. Any inspection or other action by Buyer under this Section shall

not affect Seller's obligations under the Agreement, and Buyer has the right to conduct further inspections after completion of remedial actions.

7. **Price.** The price of the Goods and/or Services is the price stated in the Purchase Order (the "**Price**"). If no price is included in the Purchase Order, the Price shall be the lowest of the price set out in Seller's published price list in force as of the date of the Purchase Order or those quoted to any of Seller's customers prior to completion of this Agreement. Unless otherwise specified in the Purchase Order, the Price includes all packaging, transportation costs to the Delivery Point, insurance, customs duties and fees and applicable taxes, including all sales, use or excise taxes. No increase in the Price is effective, whether due to increased material, labor or transportation costs or otherwise, without the prior written consent of Buyer.

8. **Payment Terms.** Seller shall issue an invoice to Buyer on or any time after the completion of each delivery and only in accordance with these Terms. Buyer shall pay all properly invoiced amounts due to Seller within the time frame stated in the Purchase Order, except for any amounts disputed by Buyer in good faith. If Seller offers a discount for timely or early payment, time will be computed from the later of the date of actual delivery or Buyer's receipt of a valid invoice, until Buyer's payment is transferred electronically or placed in post. Without prejudice to any other right or remedy, Buyer reserves the right to set off any amount owed to it by Seller against any amount payable to Seller under this Agreement. In the event of a payment dispute, Buyer shall deliver a written statement to Seller prior to the date payment is due on the disputed invoice listing all disputed items and providing a reasonably detailed description of each disputed item. Amounts not so disputed are deemed accepted and must be paid, notwithstanding disputes on other items. The parties shall seek to resolve all such disputes expeditiously and in good faith.

9. **Seller's Obligations Regarding Services.** Seller shall:

- before the date on which the Services are to start, obtain, and at all times during the term of this Agreement, maintain, all necessary licenses and consents and comply with all relevant laws applicable to the provision of the Services;
- comply with all rules, regulations and policies of Buyer, including security procedures concerning systems and data, building security procedures, including the restriction of access to certain areas of its premises or systems for security reasons, and general health and safety practices and procedures;
- maintain complete and accurate records relating to the provision of the Services under this Agreement, including records of the time spent and materials used by Seller in providing the Services. During the term of this Agreement and for a period of two (2) years thereafter, upon Buyer's written request, Seller shall allow Buyer, during normal business hours, to inspect and make copies of such records and interview Seller personnel in connection with the provision of the Services;
- obtain Buyer's written consent prior to entering into agreements with or otherwise engaging any person or entity, other than Seller's employees, to provide any Services to Buyer (each, a "**Permitted Subcontractor**"). Buyer's approval will not relieve Seller of its obligations under the Agreement, and Seller will remain fully responsible for the performance of each Permitted Subcontractor and its employees and for their compliance with all of the terms and conditions of this Agreement. Nothing contained in this Agreement creates any contractual relationship between Buyer and any Seller subcontractor or supplier;
- require each Permitted Subcontractor to be bound to the confidentiality provisions of this Agreement, and, upon Buyer's written request, to enter into a non-disclosure or intellectual property assignment agreement in a form reasonably satisfactory to Buyer;
- ensure that all persons, whether employees, agents, subcontractors, or anyone acting for or on behalf of the Seller, are properly licensed, certified or accredited as required by applicable law and are suitably skilled, experienced and qualified to perform the Services;
- ensure that all of its equipment used in the provision of the Services is in good working order and suitable for the purposes for which it is used, and conforms to all relevant legal standards and standards specified by the Buyer; and
- keep and maintain any Buyer equipment in its possession in good working order and shall not dispose of or use such equipment other than in accordance with the Buyer's written instructions or authorization.

10. **Cancellations and Change Orders.** Buyer may cancel the Purchase Order at any time upon ten (10) days advance written notice. If Buyer cancels the Purchase Order, Buyer shall be responsible for any reasonable cancellation costs incurred by Seller through the effectiveness of the cancellation notice, which shall be documented and provided to Buyer within fifteen (15) days of cancellation effectiveness. Buyer may at any time, by written instructions and/or drawings issued to Seller (each a "**Change Order**"), order changes to the Services. Seller shall within fifteen (15) days of receipt of a Change Order submit to Buyer a firm cost proposal for the Change Order. If Buyer accepts such cost proposal, Seller shall proceed with the changed services subject to the cost proposal and this Agreement.

11. **Warranties.**

- Seller warrants to Buyer that for a period of one (1) year from the later of the Delivery Date or the date the Goods are placed in use, but in no event later than two (2) years from the Delivery Date, all Goods will:

- (i) be free from any defects in workmanship, material and design;
  - (ii) conform to applicable specifications, drawings, designs, samples and other requirements specified by Buyer, if any;
  - (iii) be free and clear of all liens, security interests or other encumbrances; and
  - (iv) not infringe or misappropriate any third party's intellectual property rights.
- These warranties survive any delivery, inspection, acceptance or payment of or for the Goods by Buyer;
- (b) Seller warrants to Buyer that it shall perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement; and
  - (c) the warranties set forth in this Section 11 are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of Buyer's discovery of the noncompliance of the Goods or Services with the foregoing warranties. If Buyer gives Seller notice of noncompliance pursuant to this Section, Seller shall, at its own cost and expense, promptly (i) replace or repair the defective or nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the Goods' return to Seller and the delivery of repaired or replacement Goods to Buyer, and, if applicable, (ii) repair or re-perform the applicable Services.

**12. General Indemnification.** Seller shall defend, indemnify and hold harmless Buyer and Buyer's parent company, their subsidiaries, affiliates, successors or assigns and their respective directors, officers, shareholders and employees (collectively, "Indemnitees") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "Losses") arising out of or occurring in connection with: (a) the Goods and Services purchased from Seller; or (b) Seller's negligence or willful misconduct. Seller shall not enter into any settlement relating to the matters in this paragraph without Buyer's prior written consent.

**13. Intellectual Property Indemnification.** Seller shall, at its expense, defend, indemnify and hold harmless Buyer and any Indemnitee against any and all Losses arising out of or in connection with any claim that Buyer's or Indemnitee's use or possession of the Goods or use of the Services infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party. In no event shall Seller enter into any settlement relating to the matters in this paragraph without Buyer's or Indemnitee's prior written consent.

**14. Limitation of Liability.** Except for (a) Seller's liability under Sections 13, 16 and 19 of this Agreement, or (b) Seller's liability for fraud, personal injury or death caused by its willful misconduct, IN NO EVENT SHALL EITHER PARTY OR ITS REPRESENTATIVES BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THIS AGREEMENT.

**15. Insurance.** During the term of this Agreement, Seller shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, as applicable, commercial general liability (including product liability) in a sum no less than \$1,000,000, and public liability insurance in a sum no less than \$500,000 for injury to one person and \$1,000,000 for one accident, including the interest of Buyer as additional insured, with financially sound and reputable insurers. Upon Buyer's request, Seller shall provide Buyer with a certificate of insurance from Seller's insurer evidencing the insurance coverage specified in these Terms. Seller shall provide Buyer with ten (10) days' advance written notice if there is a cancellation or material change in Seller's insurance coverage. Except where prohibited by law, Seller shall require its insurer to waive all rights of subrogation against Seller's insurers and Seller.

**16. Compliance with Laws.** Seller shall comply with all applicable laws, regulations and ordinances. Seller shall maintain in effect all licenses, permissions, authorizations, consents and permits necessary to carry out its obligations under this Agreement, and Seller shall, upon request, furnish to the Buyer certificates or other documents verifying the same. Seller shall comply with all anti-corruption, anti-bribery, and export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Seller. Seller assumes all responsibility for shipments of Goods requiring any government import clearance. Buyer may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.

**17. Termination.** In addition to any remedies that may be provided under these Terms, Buyer may terminate this Agreement with immediate effect upon written notice to Seller, either before or after the acceptance of the Goods or Seller's delivery of the Services, if Seller has not performed or complied with any of these Terms, in whole or in part. If the Seller becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors, then the Buyer may terminate this Agreement upon written notice to Seller. If Buyer terminates the Agreement for any reason, Seller's sole and exclusive remedy is payment for the Goods received and accepted and Services accepted by Buyer prior to the termination.

**18. Waiver.** No waiver by Buyer of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Buyer. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

**19. Confidential Information.** The Purchase Order, as well as all non-public, confidential or proprietary information of Buyer, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Buyer to Seller, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential", in connection with this Agreement is confidential, solely for the purpose of performing this Agreement, and may not be disclosed or copied unless authorized in advance by Buyer in writing. Upon Buyer's request, Seller shall promptly return all documents and other materials received from Buyer. Buyer shall be entitled to injunctive relief for any violation of this Section.

**20. Force Majeure.** Neither party shall be liable to the other for any delay or failure in performing its obligations under this Agreement to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, without such party's fault or negligence, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable ("Force Majeure Event"). Seller's economic hardship or changes in market conditions are not considered Force Majeure Events. Seller shall use all diligent efforts to end the failure or delay of its performance, ensure that the effects of any Force Majeure Event are minimized and resume performance under this Agreement. If a Force Majeure Event prevents Seller from carrying out its obligations under this Agreement for a continuous period of more than sixty (60) days, Buyer may terminate this Agreement immediately by giving written notice to Seller.

**21. Assignment.** Seller shall not assign, transfer, delegate or subcontract any of its rights or obligations under this Agreement without the prior written consent of Buyer. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the Seller of any of its obligations hereunder.

**22. Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

**23. No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

**24. Governing Law.** All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of Texas without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction).

**25. Submission to Jurisdiction.** Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts of the State of Texas in each case located in the City of Houston and County of Harris, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

**26. Notices.** All notices, requests, consents, claims, demands, waivers and other communications (each, a "Notice") shall be in writing (in hard copy or electronic format) and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing. Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

**27. Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

**28. Survival.** Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Compliance with Laws, Confidential Information, Governing Law, and Survival.

**29. Amendment and Modification.** These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and is signed by an authorized representative of each party.