

SUPERIOR HOLDING, INC. - TERMS AND CONDITIONS

1. **Definitions:**
 - a) "Purchase Order" or "Order" shall mean order issued by Buyer to Seller which sets forth the written agreement between Buyer and Seller for the procurement of the Goods specified in the Order pursuant to the terms of the Order, these Terms and Conditions, and specifications, drawings, and other exhibits in the Order
 - b) "Goods" shall mean all goods, equipment, materials, and/or ancillary services to be procured by Buyer and furnished or performed by Seller under this Order.
 - c) "Buyer" means Superior Holding, Inc., a Kansas corporation located at 3524 E. 4th Avenue, Hutchinson, KS 67502 or any other subsidiary or affiliate of Superior Holding in the Order.
 - d) Seller means the party agreeing to furnish the Goods to Buyer as set forth in the Order.
2. Notwithstanding Buyer's right of inspection and acceptance set forth herein, or unless expressly superseded by other contract terms or specifications provided in the Order, Seller warrants, covenants, and represents that all Goods furnished under this Order are free from any and all defects in design, manufacturing, workmanship and/or materials, that the Goods fully comply and conform to all specifications and requirements of the Order and that the Goods are specifically fit and suitable for any intended use or purpose. The Goods covered by the Order are procured from Seller in reliance on the warranties set forth herein, as well as any other provided by statute or law, and Buyer under no circumstances shall be deemed to have procured the Goods on an "As Is, Where Is" basis, unless specifically and conspicuously agreed to in writing by Buyer. In the event that any or all of the Goods do not comply with the warranties provided or specifications included herein, then Seller shall, at its sole expense, promptly correct such defect by repair or replacement of the Goods as determined by Buyer in consultation with Seller. All expenses including labor and freight, associated with corrective action taken to remedy any defective Goods, shall be on Seller's sole account.
3. At Buyer's option, Buyer shall have the right to inspect the Goods any time prior to delivery to ensure the Goods conform to the specifications and requirements of the Order. Notwithstanding this right, Buyer shall have the right to final inspection and acceptance within a reasonable time after delivery to Buyer's designated location. Buyer expressly reserves the right to reject any Goods which do not conform or comply to the specifications or requirements of the Order, or which contain partial or completely defective Goods. In the event any portions of the Goods do not conform to the Order, Buyer may reject, at its discretion, all or part of the Goods comprising the Order. Rejected Goods shall promptly be removed by Seller, at its sole expense. Even after final inspection and acceptance, Buyer shall have the right to reject and return any Goods that contain any latent defects that could not be discovered within a reasonable inspection period.
4. Time is of the essence for the performance delivery date of the Order. If any portion of any shipment or delivery is made which is not in complete compliance with this Order, including date or time of delivery, Buyer shall have the right to reject such delivery and all or any portion of the Goods, and if Buyer so elects, can deem the Order repudiated by Seller and terminate the whole Order or any outstanding portions of the Order, without prejudicing Buyer's right to claim damages or to enforce any of the terms and conditions pertaining to a delivery date under this Order, Buyer shall have the additional right, at its option, to complete, to Buyer's sole satisfaction, any remaining unfulfilled portions of the Order, and deduct and offset any and all charges, costs and expenses relating to Buyer's covering its needs, from any sums due Seller. Seller shall be responsible to Buyer for all additional charges, costs, and expenses associated with Buyer's completion of the Order, and Buyer may seek reimbursement of the same from Seller as an element of its damages hereunder.
5. Unless specifically provided for to the contrary in the Order, Buyer shall not be responsible for any charges or costs for packaging, boxing, storing or transporting the Goods. All packages and shipments sent by Seller must bear Buyer's Order number, quantity of Goods, and net weights. All invoices must be accompanied by a bill of lading or a comparable equivalent if shipment is by rail.
6. Buyer may unilaterally, and at any time, modify the quantity of Goods ordered, or the specifications or requirements of the Order. If such changes cause an increase or decrease in the cost of such Goods, or materially effect the time for performance required of Seller under the Order, an equitable adjustment shall be made to the Order.
7. Seller warrants and agrees that it will ensure the Goods conform to all applicable laws, statutes, regulations, rules or ordinances, whether federal, state, or local, and shall execute all documents necessary to ensure such compliance. Compliance with such legal requirements shall be deemed a material provision of the Order.
8. Failure of Buyer to insist on strict performance of any of the terms and conditions of the Order, including the terms and conditions set forth herein, shall not be deemed a permanent waiver of any rights or remedies that Buyer shall have and shall not be deemed a waiver of any subsequent default of the terms and conditions hereof. The shipping, receiving, or acceptance of any Goods under this Order shall not be interpreted a waiver by Buyer of any rights or remedies for any prior or subsequent failure of Seller to perform or comply with this Order.
9. Both parties hereto acknowledge and agree that liability for any and all risk of loss of the Goods shall rest solely on Seller until such Goods are delivered FOB at Buyer's designated location set forth in the Order.
10. Seller warrants that the Goods provided pursuant to this Order and the use of them by Buyer, shall not infringe upon any third-party intellectual property or other proprietary rights. Seller shall defend, indemnify and hold Buyer, its affiliates, subsidiaries, officers, directors, representatives, agents, employees, and attorneys ("Indemnified Parties") harmless from all third party claims, damages, costs, fines, expenses, including attorneys' fees, lawsuits and/or judgments arising out of or relating to third party claims or actions against the aforementioned Indemnified Parties based on allegations that Buyer has infringed upon any intellectual property or other proprietary third party rights.
11. Consistent with the Order and subject to the terms and conditions set forth herein, Buyer shall make payments to Seller pursuant to payment terms outlined in the Order.

Seller acknowledges and agrees that as further material consideration of this Order, Seller shall be obligated to defend, indemnify and hold Indemnified Parties harmless from and against any and all costs, expenses, damages, claims, suits or liabilities, including attorneys' fees and expert fees of any kind whatsoever ("Liability"), by reason or arising out of, or in any way related or connected to any accidents, occurrences, injuries or losses to any person or property which occurs as a result of, arising out of, or in connection with the Goods procured and used under this Order, including, but not limited to Liabilities in any way due to or arising from, in whole or in part, the duties, obligations, acts or omissions of Seller or Seller's representatives, contractors or agents in the preparation, manufacture, construction, completion, erection, dismantling, loading, storage, shipment, and/or delivery of the Goods under this Order. Seller, during the term of this Agreement, shall maintain adequate insurance coverage for the types of products being supplied to Buyer.
12. Seller shall ensure and guarantee that the Goods procured by Buyer under the Order are clear of all liens, encumbrances or taxes of any nature, and a bill of sale shall be issued to Buyer immediately upon completion of delivery of Goods to Buyer or upon completion of work performed by Buyer under the Order. Seller warrants and represents that Seller is the sole lawful owner of the Goods covered by this Order and that Seller has good and marketable title to such Goods, and shall indemnify, defend and hold Buyer harmless from any demands and claims of all third parties challenging the same or asserting the right to encumber or attach the Goods.
13. In addition to any other rights or remedies which Buyer may have either under this Order or at law or in equity, Buyer shall upon the occurrence of any one or more of the events specified below be entitled forthwith to terminate this Order and at Buyer's option either (i) return to Seller all Goods received hereunder and receive back any amounts paid therefor, or (ii) retain any Goods delivered prior to such cancellation, paying therefor not more than a prorata share of the purchase price specified herein, without obligation to pay for any undelivered portion of such Goods. All rights and remedies of Buyer shall be cumulative.
 - a) The breach or failure to perform by Seller of any of the provisions or requirements of this Order,
 - b) The insolvency of the Seller, the filing by Seller of a voluntary petition in bankruptcy, the filing of an involuntary petition to have Seller declared bankrupt, provided such appointment, or the execution by Seller of an assignment for the benefit of creditors.
14. If work is to be performed by Seller on a premises or work site designated by Buyer, the Seller represents that it has examined the same and any specifications or other documents furnished in connection with the same and any equipment to be used and that it has satisfied itself as to the condition of the premises, work site and equipment. Seller further agrees that no allowance shall be made in respect of any error as to such on the part of the Seller. If work is to be performed hereunder on premises or work site designated by Buyer, the Seller shall at all times keep the premises free from accumulations of waste material or rubbish. At the completion of the work, the Seller shall leave the premises and the items clean.
15. Consistent with paragraph 12 above, the Seller, its subcontractors, agents, representatives and/or nominees shall defend, indemnify, and hold Buyer harmless for any and all damages whatsoever to any and all Goods, and in the event that any liability or damage of any nature whatsoever shall occur during the course of manufacture, dismantling, loading, crating, skidding, banding, moving, erection, transportation, or delivery, then Seller, its subcontractor, agents, representatives and/or nominees performing any phase of said scope of work shall be held liable for any and all costs pertaining to repair and/or replacement to said Goods. Repair or replacement shall be at the option of the Buyer. Said repair or replacement shall be made immediately upon written notification to Seller, its subcontractor, representatives, and/or nominees. In the event that Seller, its subcontractor, representatives, and/or nominees fails to make the provisions for the necessary and satisfactory repair or replacement within forty-eight (48) hours after notification to Seller, its subcontractor, representatives, and/or nominees, then the Buyer shall have the undisputed right and option to have all of the necessary repairs or replacements made and all of the costs involved covering labor, materials, permits, loading, transportation for performing this work shall be the Seller's, and shall be paid in full within thirty (30) days without any recourse whatsoever to the Buyer.
16. **Miscellaneous Terms and Conditions**
 - a) This Order shall be construed and interpreted in accordance with the laws of the State of Kansas. Buyer and Seller agree that any court action between the parties to enforce the provisions of the Order or resolve disputes related to this Order, shall be initiated in the state or federal courts with jurisdiction over Reno County, Kansas.
 - b) If any term of this Order is contrary to or deemed invalid under applicable laws or regulations, then such term shall be deemed omitted but shall not invalidate the remaining terms hereof.
 - c) The Seller agrees to pay all taxes and tariffs levied upon or on account of the Goods unless otherwise agreed in writing.
 - d) In the event Buyer has to enforce or interpret any of the terms or conditions of this Agreement, Buyer shall be entitled to be reimbursed by Seller for all costs associated with pursuing any claim, dispute, action, or litigation, including but not limited to attorney's and expert's fees.
 - e) This Order shall not be assigned, modified or amended without each party's written approval.