

SUPPLEMENTAL SALE TERMS AND CONDITIONS

1. **AGREEMENT.** These Supplemental Sale Terms and Conditions are incorporated by reference into the Sale Quotation and Agreement (defined as the "Agreement") between Seller and Buyer (as identified in the Sale Agreement). All capitalized words used and not otherwise defined in these Supplemental Sale Terms and Conditions shall have the same meanings and definitions as those used in the Agreement. As used herein, "this **Agreement**" shall mean, collectively, the Sale Agreement, the Sale Terms and Conditions, and these Supplemental Sale Terms and Conditions.
2. **MODULAR BUILDINGS AND COMPONENTS.** Buyer understands and agrees that: (a) the Equipment is only intended to be used for nonresidential purposes, such as office space, light storage or classroom facilities; (b) the Equipment is not pre-wired for features such as telephones, data lines, fire alarms, intercoms, lightning suppression, or other similar systems, and it is the responsibility of Buyer to wire the Equipment for these items or systems to meet Buyer's needs and preferences in accordance with all applicable laws; (c) Buyer is solely responsible for any utility or other connections to the Equipment; (d) in the event that the Equipment includes cabinetry/casework, such cabinetry/casework may be fabricated with particleboard, which is known to emit certain levels of formaldehyde. Buyer is hereby advised that lower emission and formaldehyde-free options are available for an additional cost. Seller shall have no liability for the effects of the emittance of certain levels of formaldehyde in connection with the Equipment.
3. **SPECIAL WAGE REQUIREMENTS.** Unless otherwise specified in this Agreement, prices do not include union labor, prevailing wages and fringe benefits under the Davis-Bacon Act, overtime provisions of the Contract Work Hours and Safety Standards Act, prevailing wages and fringe benefits under the McNamara-O'Hara Service Contract Act, or other special or certified wages or fringe benefits required in addition to those wages generally required under the Fair Labor Standards Act and applicable state and local law. It is the sole responsibility of Buyer to notify Seller, in writing, at least five (5) business days prior to execution of this Agreement, to the extent that any special or certified wage or fringe benefit requirements are applicable to Buyer's project so that they may be included in this Agreement. If Buyer does not do so, and such special or certified wage or fringe benefit requirements are required, additional charges will apply. If requested by Buyer in writing, Seller will provide payroll and other related documents to the extent that Seller is allowed by applicable law or regulation to share such documentation with Buyer. Unless explicitly agreed upon in writing by Seller, Seller does not hereby agree to participate in any project-specific reporting requirements, including but not limited to special reporting systems, software, or online portals, and, if agreed to, such participation by Seller may be subject to additional fees payable by Buyer.
4. **DELIVERY OF EQUIPMENT.** Buyer shall exercise due diligence and care in selecting a suitable Site for the Equipment and agrees that Buyer is solely responsible for: (a) providing Seller with free and clear access to the Site for (i) delivery and placement of the Equipment by truck using industry-standard delivery and set up methods and (ii) provision of any Services to be provided by Seller; (b) ensuring that the Site is dry, compacted (with a minimum soil load bearing capacity of no less than 2,500 psf) and level (defined herein as the length of the Equipment having no greater than a four (4) inch drop in forty (40) feet and the width of the Equipment having no greater than a one (1) inch drop in eight (8) feet); (c) identifying and marking all underground elements at the Site, including but not limited to utilities utilizing appropriate third-party services; (d) clearly marking the four (4) corners of the area where the equipment is to be placed as well as the location of the door, (e) clearing the area of all grass, shrubs, trees, and other similar hazards, (f) ensuring that the Equipment shall be placed in an area with adequate drainage to avoid flooding, and (g) obtaining the authority and right to place the Equipment at the Site, including, in the event that the Site is not owned by Buyer. If Buyer fails to comply with the preceding requirements and conditions prior to delivery, Seller shall be entitled to an extension of time to reschedule and complete delivery and an increase in the Purchase Price for all additional costs incurred by Seller. In the event that the Equipment must be adjusted, re-leveled or re-set due to Site or weather conditions (e.g., ground saturation, settling, instability, etc.) or due to the weight of Buyer's personal property in the Equipment, such services may, at Seller's discretion, be performed by Seller at Buyer's sole cost and expense. In the State of California, DSA-approved Equipment is subject to the following additional installation requirements: (a) the area where the equipment is placed must be graded to within 4.5 inches of level grade; and (b) under no circumstances have less than a 1,500 psf minimum soil bearing pressure. Section 8 ("Tiedowns") below is not applicable to DSA-type Equipment.
5. **HYBRID CAMPUS MAKER, ECO, ECO II AND TYPE IIB SIDE STACKABLE CLASSROOMS.** In the State of Florida Hybrid Campus Maker, Eco, Eco II and Type IIB Side Stackable Classrooms types of Equipment have a one-hour firewall on the long side walls. Buyer is duly advised that penetration of these walls may cause such Equipment to lose its one-hour fire rating and the Equipment will fail to be code compliant. Buyer shall be solely liable for any failure to maintain one-hour fire rating and code compliance in the event of any wall penetration by Buyer.
6. **TIEDOWNS.** "Tiedowns" means tiedowns, earth anchors, seismic and/or wind restraints. In the event that Tiedown installation is not expressly listed in the "Charges Upon Delivery" section of this Agreement, Buyer, at Buyer's sole judgement and discretion, has effectively rejected Seller's offer to install Tiedowns on the Equipment at the sole risk and liability of Buyer. Seller shall bear no liability for any damages to person or property in or around the Equipment or to the Equipment or any Accessories, nor shall Seller be liable for any injuries, including death, that may occur due to the lack of Tiedowns or the failure of Tiedowns. It is the sole responsibility of Buyer to ensure compliance with all requirements of any applicable governmental authority pertaining to the foundation system of the Equipment and any Tiedowns requirements. In the event that Buyer elects to have Tiedowns installed, the following terms and conditions are applicable: (a) friction-based or earth anchor seismic/wind restraint systems are rated for exposure C wind loads as defined in the plans provided to Buyer and are designed to be used on sites with a minimum soil bearing pressure as specified on such engineered plans; (b) additional charges may be incurred by Buyer for custom foundation engineering and additional or different foundation materials and/or work; (c) for an additional charge, wet-stamped engineered plans and calculations are available for seismic/wind restraint systems; (d) Seller does not warrant that Buyer's site conditions will be adequate for the seismic/wind restraint system; (e) upon request, Seller may provide a recommendation of the number of earth anchors based on the size and type of Equipment, it being understood and agreed by Buyer that Seller's recommendation is not a guaranty or warranty of any kind as to the number of required earth anchors; (f) the Warranties set forth in the Agreement do not apply to any seismic/wind restraint systems in the event that Buyer has not elected to purchase wet-stamped engineered foundation plans and calculations; (g) at the time of installation of earth anchors, in the event that ground penetration is hindered for any reason, including without limitation, by large rocks, lime, cement, or utility lines, Buyer is solely responsible for all costs associated therewith, including replacement of broken earth anchors (in the event of any damage to utility lines, the cost of repairs will be borne solely by Buyer); and (h) at the time of return of the Equipment, Seller will cut the straps of the earth anchors in order to remove the Equipment and Buyer shall be responsible for removal of the earth anchors from the Site. Seller shall not be responsible for any patching or other repairs to the Site ground surface that may be required following removal of earth anchors.
7. **PLUMBING.** If any Equipment includes plumbing systems, Buyer is solely responsible for making waste and water connections to the Equipment stub outs. Buyer is solely responsible for providing the plumbing and assembling the plumbing manifold and for final on-site connections. Seller makes no guarantees that the stub out locations or set height of the Equipment will coincide with existing stub outs, holding tanks or other connection-related items. Buyer is responsible for any malfunction of lines, valves, piping, etc. related to foreign matter, improper connection of waste/water lines, negligence or misuse, or for any other malfunction not directly attributable to a failure of the equipment to conform to the applicable warranties as set forth in this Agreement. Testing of water for chlorination, pressure or other items/issues is the sole responsibility of Buyer. If Buyer is connecting Equipment plumbing

system to temporary/portable holding tanks and/or fresh water supply tanks, whether obtained from Seller or Seller's supplier, or from an unrelated third party supplier of Buyer's.

8. **ACCESSORIES.** The following terms and conditions are applicable to the extent that any accessories are included in this Agreement. Buyer's obligations to Seller pursuant to this Agreement with respect to the Equipment (including but not limited to those relating to responsibility for damages, relocation, return, maintenance and repairs, insurance, and indemnify) shall also apply with respect to the accessories unless otherwise expressly stated.

(a) Certain accessories, including but not limited to holding tanks and generators, may present certain hazardous conditions or materials. Buyer agrees that it is fully aware of the potential hazards in using such accessories and hereby assumes all risk associated therewith.

(b) Buyer shall use, maintain, or remove any waste or hazardous materials related to any such accessories in accordance with manufacturer's recommendations and all applicable laws, rules, and regulations.

(c) **HOLDING TANKS/FRESH WATER TANKS.** For Buyer's comfort and convenience, Seller strongly recommends that Equipment containing plumbing systems be connected directly to sanitary sewer lines. In the event that Buyer elects to utilize temporary holding tanks as a means of waste disposal, Buyer is hereby advised that use of holding tanks presents additional risks, as holding tank capacity is directly affected by water usage, leaky faucets, etc. Seller shall not be liable for any loss or damage resulting from holding tanks that fill up more quickly than expected, or that overflow. Buyer is responsible for providing necessary plumbing parts, assembly of plumbing manifold and final on-site connections between the Equipment and any such holding or supply tanks. Seller makes no representations, warranties, or guarantees that the stub out locations or set height of the Equipment will coincide with the holding and/or supply tanks, or other connection-related items. Buyer may be required to trench, dig a pit or make other site-related modifications to accommodate waste and supply tanks. If fresh water tanks are provided by Seller, Buyer is hereby advised that the water is non-potable and is considered unsafe for consumption.

(d) **STAIRS.** The term "Stairs" shall mean prefabricated metal stairs, including handrails, with landings. Seller's sole responsibility with respect to Stairs is to deliver the Stairs to the Site. Notwithstanding any assembly or installation by Seller, Buyer is and shall remain solely liable for the installation and assembly of the Stairs and for any failure to comply with applicable codes, regulations and/or ordinances with respect to the Stairs after the Stairs are delivered to the Site. **BUYER HEREBY WAIVES AND RELEASES ANY CLAIM IT MAY HAVE AGAINST SELLER ARISING FROM SELLER'S INSTALLATION OR ASSEMBLY OF THE STAIRS. BUYER FURTHER AGREES THAT IT SHALL INDEMNIFY, DEFEND, AND HOLD THE SELLER HARMLESS FROM AND AGAINST ANY AND ALL LOSSES RESULTING FROM OR IN ANY WAY RELATED TO THE INSTALLATION AND ASSEMBLY OF THE STAIRS.**

(e) **RAMPS.** Buyer shall not alter ramps provided by Seller from their installed state. Any alterations or modifications of ramps may result in failure to comply with applicable code, regulations and ordinances and any such alterations or modifications, including cosmetic changes, may result in additional charges to Buyer for repairs or replacement of the ramp. Sloping Site or other conditions may impact the use of prefabricated ramps and may require customized configurations, which may result in additional charges to Buyer. Buyer is responsible for making the transition from the end of the ramp to existing grade of the Site and such transition may require grading, paving or other site work by Buyer at Buyer's sole cost and expense, to ensure finished ramp complies with all applicable codes, regulations and ordinances.

9. **ASSIGNMENT.** Buyer shall not assign this Agreement without the prior written consent of Seller. This Agreement shall be binding upon any assignee or successor of Buyer. Seller may assign any of its rights, remedies, responsibilities, and/or obligations hereunder without notice to Buyer. Buyer acknowledges that Services performed at the Site may be performed by vendors on behalf of Seller.

10. **LIENS; TITLE.** Until Buyer has paid Seller the full Purchase Price, Buyer shall keep the Equipment free and clear of any and all claims, liens, security interests, encumbrances, or attachments. Upon Seller's receipt of the entire Purchase Price, title or certificates of ownership (as applicable) to the Equipment shall transfer to Buyer, free and clear of all encumbrances. The parties shall cooperate to properly document transfer of title. The state shall assess Buyer directly for future annual registration or renewal related to modular buildings and Buyer agrees it is responsible for all charges, fees and taxes (local, state and federal) levied or assessed upon ownership, purchase, possession, use or operation of the Equipment.

11. **MARKETING DISCLAIMER.** Buyer agrees that, by executing this Agreement, it is opting-in to receive emails, phone calls, text promotions and offers from Seller. Buyer may unsubscribe at any time using the links provided in such emails.

12. **INTELLECTUAL PROPERTY.** Nothing in this Agreement shall be deemed to convey to Buyer any right, title or ownership in any intellectual property with respect to the Equipment or intellectual property owned by Seller or any third party, in whole or in part, nor be construed to designate deliverables hereunder as "works made for hire" under the U. S. Copyright Act, as amended.

13. **CONFIDENTIALITY.** Buyer agrees to, at all times, maintain the confidentiality of this Agreement, all terms and conditions set forth herein and all other non-public information related to the transactions consummated hereby.

14. **COMPLIANCE WITH LAW.** Buyer has responsibility for obtaining all licenses, permits, certificates and other approvals required by law for the placement, installation, operation, use, possession, and occupancy of the Equipment on the Site and for complying with all applicable laws, codes, regulations, ordinances, or zoning or land use restrictions. Buyer acknowledges that the Services performed at the Site may not include certain services that might be warranted for safety or required by governmental authorities, for example foundational requirements, Tiedowns, earth anchors, and seismic and/or wind restraints. **BUYER AGREES TO FULLY COMPLY WITH ALL LAWS, STATUTES, CODES, ORDINANCES, ZONING OR LAND USE RESTRICTIONS, RULES, REGULATIONS AND ORDERS OF ALL LOCAL, STATE AND FEDERAL GOVERNMENTAL AUTHORITIES APPLICABLE TO THE EQUIPMENT OR ITS PURCHASE, INSTALLATION, POSSESSION, OR USE; AND AGREES TO INDEMNIFY, DEFEND AND HOLD SELLER HARMLESS FROM ANY AND ALL FINES, FORFEITURES, SEIZURES, PENALTIES OR OTHER LIABILITIES THAT MAY ARISE FROM ANY INFRINGEMENT OR VIOLATION OF ANY SUCH LAW, STATUTE, CODE, ORDINANCE, ZONING OR LAND USE RESTRICTION, RULE, REGULATION OR ORDER.**

15. **GOVERNING LAW; VENUE.** Buyer and Seller agree that this Agreement shall be governed in all respects by, and interpreted in accordance with the laws of the State of the Site or the location where the Buyer takes possession of the Equipment, without regard to its conflicts of laws' provisions. It is agreed that the venue for a legal action relating to this Agreement shall be proper only if brought in, and the exclusive jurisdiction for any disputes relating to this Agreement shall be, the Federal and State courts having jurisdiction over the Site or the location where the Buyer takes possession of the Equipment. The prevailing party in any legal proceeding arising out of this Agreement shall be entitled to recover its reasonable attorneys' fees, court costs and expert witness fees.

16. **FEDERAL CONTRACTOR.** As a federal contractor, Seller's contracts are subject to the provisions of (i) Executive Order 11246, (41 CFR 60-1.4); (ii) section 503 of the Rehabilitation Act of 1973, (41 CFR 60-741.5(a); and (iii) section 4212 of the Vietnam Era Veterans Readjustment Act of 1974, (41 CFR 60-300.5(a). Seller shall abide by the requirements of 41 CFR 60-741.5(a) and 41 CFR 60-300.5(a). These regulations prohibit discrimination against qualified individuals on the basis of disability, and qualified protected veterans, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities, and qualified protected veterans.

17. **FORCE MAJEURE.** Notwithstanding anything to the contrary contained herein, Seller shall not be liable if its performance is delayed or prevented by any Act of God, strike, lockout, shortage of material or labor, restriction by any governmental authority, civil riot, flood, pandemic, epidemic or global health emergency or any other cause not within the reasonable control of Seller. In such event, the period for performance will be extended for a period equal to the period Seller is so delayed or prevented. In no event shall this Paragraph be construed to excuse the failure to make a payment as required under this Agreement or extend the due date for such a payment.

18. **FINANCING STATEMENT.**

(a) For value received, Buyer hereby grants to Seller, to secure the payment and performance in full of all of Buyer's obligations under this Agreement, including without limitation Buyer's obligations to pay for all Equipment, Accessories, and Services, a security interest in and pledges and assigns to Seller the following properties, assets, and rights of Buyer, wherever located, and all products and proceeds thereof, and all books and records relating thereto: the Equipment, the Accessories, and all parts, accessions, additions, replacements, supporting obligations, products, insurance proceeds and all other proceeds thereof (all of the same being hereinafter called the "**Collateral**").

(b) Until Buyer has satisfied in full payment of the Purchase Price and performance of all of Buyer's obligations under this Agreement, Buyer represents and warrants to Seller that the Collateral will remain located at the Site listed in the Agreement, and that Buyer shall retain exclusive possession and control of the Collateral. Buyer hereby agrees to notify Seller, in writing ten (10) business days in advance of any change in the location of any Collateral and provide Seller with the new location of the Collateral.

(c) Buyer shall not sell, offer to sell, assign, lease, license, or otherwise transfer, or grant, create, permit, or suffer to exist any option, security interest, lien, or other encumbrance in, any part of the Collateral until Buyer has satisfied in full payment of the Purchase Price and performance of all of Buyer's obligations under this Agreement.

(d) Buyer agrees that at any time and from time to time, at the expense of Buyer, Buyer will promptly execute and deliver all further instruments and documents, obtain such agreements from third parties, and take all further action, that may be necessary or desirable, or that Seller may reasonably request, in order to maintain title in the Equipment and/or maintain the validity, perfection or priority of and protect any security interest granted or purported to be granted hereby or to enable Seller to exercise and enforce its rights and remedies hereunder or under any other agreement with respect to any Collateral. Buyer hereby authorizes Seller to file or record any document necessary to perfect, continue, amend, or terminate its security interest in the Collateral, including, but not limited to, any financing statements, including amendments, authorized to be filed under the Uniform Commercial Code, without signature of Buyer where permitted by law.

19. **MISCELLANEOUS.** This Agreement may not be amended, altered, or modified except by a writing signed by both Seller and Buyer. Failure of Seller to enforce any term or condition of this Agreement shall not constitute a waiver of any rights set forth herein nor shall it in any manner affect the rights of Seller to subsequently enforce any term or condition under this Agreement. If any provision of this Agreement is found invalid, illegal or unenforceable by a court of competent jurisdiction, the validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby and the provision in question shall be modified to the extent necessary to lawfully enforce the parties' intentions. All notices, requests, demands, consents, and other communications required or permitted to be given or made hereunder shall be in writing and shall be deemed to have been duly given and received, (i) if delivered by hand, the day it is so delivered, (ii) if mailed via the United States mail, certified first class mail, postage prepaid, return receipt requested, five business days after it is mailed, or (iii) if sent by a nationally recognized overnight courier, the business day after it is sent, to the party to whom the same is so given or made, at the address of such party as set forth on this Agreement, which address may be changed by like notice to the other party hereto duly given as set forth herein. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by electronic means (including with the use of electronic signatures) by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by electronic means as if the original had been received. All obligations of any party to this Agreement that are not fulfilled at the expiration or the termination of this Agreement will survive such expiration or termination as continuing obligations of the party.

Supplemental Sale Terms and Conditions, Rev. 01/14/25

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: Melissa Tartaglia
County Attorney's Office