



## STANDARD TERMS AND CONDITIONS OF PURCHASE (OCTOBER 1, 2019)

All purchases made by Van Gorp Corporation are governed by our STANDARD TERMS AND CONDITIONS OF PURCHASE in effect at the time purchase order is placed with the Seller. These Terms and Conditions will be the complete and exclusive statement of the terms of the agreement governing the purchase of goods ("Goods") by Van Gorp Corporation (Buyer) from Seller ("Seller"). Seller's acceptance of the purchase order will manifest Seller's assent to these Terms and Conditions. If these Terms and Conditions differ in any way from the terms and conditions of Seller, or other documentation, this document will be construed as a counteroffer and will not be deemed an acceptance of Seller's terms and conditions which conflict herewith.

1. **PRICES:** Unless otherwise specified in writing by Van Gorp Corporation, the price for the goods shall be the price as shown on the purchase order. Unless otherwise stated in this Agreement and except to the extent prohibited by applicable law, (a) the price for the Goods and/or Services shall include all applicable taxes, including but not limited to sales taxes, use taxes, value added taxes ("VAT"), transaction privilege taxes, gross receipts taxes, and other charges such as duties, customs, tariffs, imposts, any payroll taxes for Services performed in country by Seller's personnel, and any other government imposed taxes (each and all hereafter referred to as "Taxes"), each of which shall be stated separately on Seller's invoice and (b) Seller shall not bill Buyer for any Taxes as separate items.
2. **TERMS OF PAYMENT:** Payment terms will be net sixty (60) days following (i) receipt of the conforming Deliverables pursuant to Buyer's delivery requirements, and (ii) satisfaction of the invoicing requirements set forth in this Agreement. The cash discount period, if any, shall be computed as commencing with receipt by Buyer of invoice or of Deliverables, whichever is later. All invoices must contain the following information: Order number (including purchase order number, purchase order release number, and number of any similar document as applicable), item number, description of items, quantities, unit prices, taxes and other details as Buyer may request. Payments of invoices shall not constitute acceptance of Deliverables and shall be subject to adjustment for shortages, defects and other failure of Seller to meet the requirements of this Agreement. In accordance with U.S. Bureau of Customs and Border Protection ("CBP") Regulations – 19 CFR 141.81, a commercial invoice will be presented with each merchandise shipment entering the U.S. Such invoice shall be prepared in the English language (or an English translation attached thereto), in accordance with 19 CFR 141.86-141.89. Buyer shall not be obligated to pay for any Deliverable if the invoice for such Deliverable is received more than six (6) months after the receipt of the Deliverable.
3. **SHIPMENT AND DELIVERY: Delivery Date.** Seller shall furnish the Deliverables in accordance with the delivery terms stated on the Order and if delivery dates are not stated, Seller shall offer Buyer its best delivery dates, subject to written acceptance by Buyer ("Delivery Dates"). Time is of the essence in Seller's performance of the Order, and Seller shall deliver Goods and perform Services by the Delivery Dates. If Seller fails to deliver the Deliverables in full on the Delivery Date, Buyer may terminate the Order 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 Deliverables on the Delivery Date. Buyer may from time-to-time adjust its delivery schedules, and unless otherwise agreed in writing, such changes in schedule shall not affect the prices of the Deliverables ordered. Buyer may defer payment with respect to, or return, at Seller's expense, any Deliverables delivered in advance of the scheduled Delivery Date or in excess of the quantity specified for such Deliverables. (b) **Terms.** If Order does not qualify Sellers prepaid shipment terms then Unless otherwise expressly set forth in the Order, the delivery terms for Goods shall be: FCA Buyer's facility Incoterms® 2010. As consistent with this delivery term, standard delivery instructions of the relevant Buyer apply and may be obtained through the relevant Buyer procurement representative. Title and risks of damage and loss shall pass to Buyer on delivery of Goods as provided in this section. If delivery is required to be made to a third party (drop shipment), title and risks of damage and loss shall pass to Buyer when delivered at the third party's facility. (c) **Notice of Delay.** Whenever an actual or potential reason for delay (including but not limited to labor disputes) delays or threatens to delay the timely performance of the Order, Seller shall immediately notify Buyer in writing of all relevant information and, subject to the force majeure provision set forth herein, shall make and pay for all necessary changes to fulfill its obligations under the Order and shall mitigate the potential impact of any such delay. Buyer has the right, without incurring any liability, to cancel any Deliverables affected by the delay in performance. (d) **Cessation of Production.** Seller shall give Buyer at least one hundred eighty (180) days prior written notice of the permanent discontinuance of production of items covered by Orders, provided however that compliance with this provision shall in no way relieve the Seller from its obligations under the Order. (e) **Packing.** All Goods shall be packed 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 shall not charge separately for packaging, packing or boxing, unless Buyer has agreed to such charges in writing. Seller shall not combine in the same container, material that is to be delivered to different receiving locations. Seller shall not combine, in the same package or box, Goods that are not the same (i.e. same part number). All wood products used in packaging shall be ISPM 15 compliant. (f) **Marking.** Unless otherwise agreed in writing, exterior containers shall be marked with the following: (i) address of Buyer site and Seller; (ii) Order number; (iii) part number of the Goods; (iv) special markings called for on the Order; (v) quantity; and (vi) where applicable, vendor code or other vendor identification number. In accordance with CBP Regulations 19 CFR 134, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the Goods or their container will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the Goods. (g) **Bills of Lading.** Bills of Lading shall reference the Order and Buyer's receiving address and purchase point of contact. When Buyer will be the importer of record, Seller will follow the instructions of Buyer's designated representative regarding completion of documentation used in the importation process and proper declaration of value. The original copy of the bill of lading with Seller's invoice shall be mailed to the location specified by Buyer's procurement contact, or if no location is specified by Buyer, to Buyer's Accounts Payable Department. (h) **Packing Slip.** Seller shall include an itemized packing slip with all shipments that will adequately identify the Goods shipped, including Buyer part number. (i) **Shipping and Approved Carriers.** Seller shall use only Buyer-approved carriers and forwarders for transportation of the Goods and shall reduce prices by an amount equal to the shipping costs if Buyer pays the freight carrier directly. In the event Seller makes any shipment by a carrier or method other than that approved by Buyer, Seller shall be responsible to reimburse Buyer for all losses or additional expenses incurred by Buyer by reason of the unapproved shipment. No shipment shall be made by air freight unless specifically authorized by Buyer. On Orders where Buyer either pays for or reimburses Seller directly for shipping costs, Goods shall be shipped in accordance with routing instructions furnished by Buyer. If such instructions are not received, Goods shall be shipped via least expensive method sufficient to meet delivery requirements, but always through Buyer-approved carriers. (j) **Partial Shipments.** Seller shall obtain the prior written permission of an authorized representative of Buyer prior to making a partial shipment to Buyer and otherwise may not make a partial shipment to Buyer.
4. **WARRANTY: Goods Warranty.** Seller warrants to Buyer and Buyer's successors, assigns, Buyer's Customers, and users of goods sold by Buyer that all Goods provided under the Order shall be and continue to be: (i) merchantable; (ii) fit for the purpose intended; (iii) new; (iv) free from defects in material and workmanship; (v) free from defects in design if the design is not provided by Buyer; (vi) manufactured in strict accordance with the Specifications; (vii) free from liens or encumbrances on title; and (viii) to the extent the Goods are, or contain, hardware, software, and/or firmware products, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing all times and dates) and are free of viruses and other sources of network corruption (collectively, for this section, the "Warranty"). If the Order requires specific Goods to perform as a system, the foregoing Warranty also shall apply to those Goods as a system. (b) **Goods Warranty Remedy – Repair or Replace.** Buyer may require Seller to promptly repair or replace, at Buyer's option, any Goods that breach the Warranty. Buyer may return ship the Goods on the fastest available commercial carrier at Seller's expense and risk of loss. Goods returned to Buyer hereunder shall be shipped at Seller's expense and risk of loss and shall be accompanied by notice stating whether they are new replacements or repaired originals and shall continue to be covered under this Warranty. Seller shall conduct intake, review, analysis and any other activity required to evaluate whether the returned Goods are covered by the Warranty at no expense to Buyer. (c) **Goods Warranty Remedy – Other**

**Costs, Expenses and Damages.** Notwithstanding any other provision, in addition to the foregoing, Seller shall be liable for Buyer's actual costs, expenses and damages related to or arising from Goods not conforming to the Warranty, including but not limited to labor and other costs related to transportation of Goods, expediting, removal, disassembly, failure analysis, isolation, assembly, reinstallation, reinspection, retrofit, and any and all other such corrective action costs incurred by Buyer. (d) **Services Warranty.** Seller warrants to Buyer that all Services provided under or in connection with an Order: (i) have been, if applicable, and will be performed in a professional and workmanlike manner and in accordance with current, sound and generally accepted industry standards and practices by appropriately licensed, trained, supervised and personnel who are experienced in the appropriate fields; and (ii) do, if applicable, and will conform to and be in compliance with the Specifications, performance requirements and other requirements contained in the Order (the "Service Warranty"). Seller agrees that should any of the Services be defectively performed by Seller, Seller will re-perform or correct such defective Services at no additional charge. Notwithstanding any other provision, in addition to the foregoing, Seller shall be liable for Buyer's actual costs, expenses and damages related to or arising from the Services not conforming to the Services Warranty.

5. **CANCELLATION: For convenience.** The Buyer may cancel orders only upon written notice to Seller. In such case, Buyer's sole obligation will be to pay for completed Deliverables that are delivered. **For Default.** If (i) Seller fails to make any delivery or perform Services in accordance with Delivery Dates or otherwise fails to comply with the Order and does not remedy such failure within a reasonable time after receipt of written notice thereof, (ii) Seller fails to make progress to such an extent that performance of the Order is endangered, (iii) any proceeding is filed by or against Seller in bankruptcy or insolvency, or for appointment for the benefit of creditors, or (iv) Seller commits any other breach of this Agreement, Buyer may (in addition to any other right or remedy provided by this Agreement or by law) terminate all or any part of this Agreement by written notice to Seller without any liability and may purchase substitute goods and services elsewhere. Seller shall be liable to Buyer for any cost occasioned Buyer thereby. Buyer also may require Seller to transfer title and deliver to Buyer any completed supplies, and such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights as Seller has specifically produced or specifically acquired for the performance of such part of this Agreement and any technology or information necessary for production of Deliverables. If a court of competent jurisdiction finds that any termination for cause was wrongful, then such termination shall be automatically converted to a termination for convenience and the rights and obligations of the parties will be as set forth in the section hereof titled "Termination for Convenience." The parties agree that the provisions of this Termination for Default section shall not apply to failures or delays in making deliveries of Deliverables when such failure or delay is due to any cause beyond the control and without the fault or negligence of Seller as provided in the force majeure provision set forth herein; provided, however, that Buyer may cancel without liability to Seller its purchase of any such items.

5. **CHANGES:** Buyer shall have the right at any time prior to the delivery date of deliverables to make changes in specifications, packaging, place of delivery, nature and duration of services, and method of transportation, or require additional of diminished work (a "Change Order"). If such changes cause an increase or decrease in the cost or time required for the performance or affect any other provision of the order, Seller shall notify Buyer of it's of modifications including pricing for the change, including a cost breakdown and substantiation for change and parties shall negotiate an equitable adjustment for the Change Order in writing accordingly. Seller's claims for adjustment under this section shall be deemed waived unless asserted in writing and delivered to Buyer within (10) days from the date Seller receives the Change Order.

6. **ASSIGNMENT:** Seller shall not assign its rights or delegate its duties hereunder or any interest therein or any rights hereunder without the prior written consent of Van Gorp Corporation, and any such assignment, without such consent, shall be void.

7. **FORCE MAJEURE AND DISASTER RECOVERY:** Neither Seller nor any Buyer shall be liable for damages for any failure or delay in the performance of this Agreement or any Order resulting from causes beyond its reasonable control that may include, but not be limited to, unforeseeable events such as acts of God, acts of Government, war, court order, riots, natural disasters, and labor strikes (a "Force Majeure Event"). Buyer may cancel without liability to Seller its purchase of any Deliverables affected by Seller's failure or delay in performance in the case of a Force Majeure Event. The party incurring the delay shall give timely notice to the other of any such event and shall use all reasonable efforts to avoid or remove the cause and resume performance with minimum delay. If requested by Buyer, the parties shall jointly prepare a contingency plan to address the potential impact of any such event. If a failure or delay in performance is caused by an event affecting any of Seller's suppliers, such failure or delay shall not be excusable unless such event is a "Force Majeure Event" as defined above and the Good or Service to be provided by such Seller is not obtainable by Seller from other sources in time for timely delivery to Buyer.

8. **BUSINESS CONDUCT AND COMPLIANCE WITH LAWS:** Seller

represents and warrants that, in connection with this Agreement: RoHS Compliance. Seller represents and warrants that all the Goods comply with the Restriction of Hazardous Substances Directive and subsequent or related directives (the "RoHS") and specifically that the components of any Deliverables do not contain lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB), polybrominated diphenyl ethers (PBDE), or any other substance to the extent that its use is restricted by amendments to RoHS, except as permitted by the Annex to RoHS. Seller shall comply with any amendments to RoHS that the European Parliament or other regulatory body may impose, and any further instructions given by Buyer. REACH Compliance. Seller represents and warrants that all the Goods, parts of Goods and/or materials supplied under this Agreement will be supplied in full compliance with the provisions of the European Regulation (EC) n° 1907/2006 of 18 December 2006 concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (the "REACH Regulation").

9. **GOVERNING LAW:** The validity, performance, and all other matters relating to the interpretation and effect of this contract shall be governed by the law of the state of Iowa.

10. **MISCELLANEOUS:** These terms and conditions set forth the entire understanding and agreement between Seller and Van Gorp Corporation unless specified in writing by Van Gorp Corporation.