

## TERMS AND CONDITIONS OF SALE

**Liberty Roofing Center Inc. Liberty group of companies\***, their branches and all of their affiliates and related entities doing business as **LIBERTY Roofing Center** or **LIBERTY Roofing and Exterior Supply LIBERTY** (“Liberty” or “Seller”)

\***Liberty Roofing Center, Inc.; Liberty Roofing Center-Butler, PA LLC; Liberty Roofing Center, Pittsburgh N/E, LLC; Liberty Roofing Center Elizabeth NJ, LLC; Liberty Roofing Center, Lakewood NJ, LLC; Liberty Roofing Center, Chester VA, LLC; Liberty Roofing Center, Gloucester, LLC; Liberty Roofing Center, Northern VA, LLC**

These terms and conditions of sale (“Terms and Conditions of Sale”) bind Liberty selling goods in the United States and its customer (“Buyer”) regarding the sale by and purchase from Seller of products (“Goods”) in the United States. By accepting delivery of Goods from Seller, Buyer agrees to be bound by these Terms and Conditions of Sale.

- 1. Terms and Conditions to Govern.** These Terms and Conditions of Sale, supersede all prior agreements, discussions or proposals with respect to the purchase and sale of the Goods. Any conflicting terms set out in Buyer’s purchase order or other Buyer documents or communications are specifically rejected by Seller. Unless otherwise expressly stated in these Term and Conditions of Sale, only corporate officers of Seller shall have the legal authority to amend or modify any provisions of these Terms and Conditions of Sale, and no waiver, amendment or modification shall be binding unless signed in writing by such corporate officer.
- 2. Price.** Prices in effect at time of shipment of Goods or performance of services shall prevail. All prices quoted by Seller are subject to change without notice. Prices do not include any present or future taxes, sales, goods and services, customs, duties, transportation and delivery, insurance, use, excise, value added or similar taxes and where applicable, such items shall be billed as a separated item and paid by Buyer. Buyer shall pay such amounts in addition to Seller’s prices. Title and risk of loss shall pass from Seller to Buyer once the Goods are loaded on the first carrier at Seller’s facility in circumstances where Buyer has arranged freight, or once delivered by Seller to Buyer’s delivery destination where Seller has arranged freight. Buyer hereby grants Seller a security interest in the Goods and all insurance or other proceeds of disposition thereof until payment in full of the total purchase price, together with any applicable interest and other charges as provided for herein have been fully satisfied, as set out in Section 6 of these Terms and Conditions of Sale.
- 3. Payment Terms.** Seller shall be paid for the Goods in accordance with the terms agreed upon in writing between Seller and Buyer. In case of any default in payment hereunder or under any other contract with Seller, all amounts owing under this and other contracts by Buyer to Seller shall become due, notwithstanding the terms of sale. Buyer shall be liable for all expenses attendant to the collection of past due amounts, including attorneys’ fees and costs. Seller shall have the right to set off any amounts owing from Buyer against any amounts payable to Buyer. On overdue accounts, Buyer shall pay to Seller, on demand, interest at the rate of eighteen

percent (18%) per annum, calculated and payable monthly, on the last day of each month, not in advance. However, if the foregoing charges exceed that rate which may be lawfully charged under applicable law, then such charges will be calculated so as to not exceed the highest lawful rate. In the event that Seller determines, at any time in its sole and absolute discretion, that it does not want to sell Goods to the Buyer, including if it determines in its sole discretion that the credit of Buyer or of any person or entity providing credit support for Buyer's obligations to Seller is or becomes impaired, or there is any reason to doubt the enforceability or sufficiency of any agreement, instrument or document supporting Buyer's obligations to Seller, Seller shall have the right, among any other rights provided by applicable law, to declare immediately due and payable any and all amounts owed by Buyer to Seller, whether under these Terms and Conditions of Sale or otherwise, and to suspend and/or terminate further production, shipment, and delivery of Goods to Buyer under any order, whether under these Terms and Conditions of Sale or otherwise, until Seller determines, in its sole discretion, that Seller will sell Goods to the Buyer, and that credit arrangements satisfactory to Seller in its sole discretion have been established. If Buyer desires credit from Seller, or if any such credit is provided to Buyer, or performance assurance is required by Seller of Buyer, Buyer will provide to Seller the financial information requested.

4. **Delivery.** Delivery dates given in advance of actual shipment are estimates and shall not be deemed to represent fixed or guaranteed delivery dates, and are subject to the availability of the Goods, freight space and prompt receipt of all necessary documentation regarding the order, if applicable. Seller shall not be liable or responsible for any loss or damage resulting from delay in delivery and Seller will not accept chargebacks for delays in shipment. Partial shipments are allowed. Each delivery or shipment shall be considered a separate sale. Seller reserves the right to accept or reject an order for Goods at its discretion.
5. **Special Delivery.** Delivery will ordinarily be made by Seller to the curbside closest to the project site. Buyer authorizes Seller to unload and leave the Goods at the delivery destination in the event Buyer is not present to accept delivery. On Buyer's instructions, Seller may agree to make delivery onto the project site itself, which will necessitate traversing over the project site and improvements (such as driveways) situated thereon with trucks which are not designed for use on residential driveways or landscaped areas. Additionally, on Buyer's instructions, Seller may make delivery of roofing materials onto the rooftop of the building located on the project site, via the use of cranes or lifts or the like equipment, whether in the presence of Buyer or without the presence of Buyer or its representative. Buyer is solely responsible for inspecting the roof prior to delivery of the Goods and making the determination that the roof and its structural components can properly support the weight of the Goods to be placed thereon, and for promptly installing the Goods following the rooftop delivery. **Buyer acknowledges that each such form of special delivery may cause damage to the project site, including but not limited to damage to driveways, hard and soft landscaping, utilities or any other chattels or fixtures found on or forming part of the project site, or may cause damage to the roof, the structural deck or the building as a result of placement of roofing materials on the rooftop. Buyer**

**releases Seller, its officers, directors, agents, employees and contractors (the “Seller Releasees”), and will indemnify and hold the Seller Releasees harmless from and against any claims, demands, actions, damages or loss, including attorney’s fees and costs, arising out of or in connection with any bodily injury to persons, including death, and any and all damages to or loss of property arising out of or relating to the delivery of the Goods on the project site, including delivery onto the rooftop on the building at the project site.** THIS RELEASE AND INDEMNITY REFLECTS A DELIBERATE AND BARGAINED FOR ALLOCATION OF RISKS BETWEEN SELLER AND BUYER AND CONSTITUTES THE BASIS FOR THE PARTIES’ BARGAIN WITHOUT WHICH SELLER WOULD NOT HAVE AGREED TO PERFORM THE SPECIAL DELIVERY.

6. **Security Interest.** Seller reserves and Buyer grants to Seller a purchase money security interest in all Goods sold and any cash receivables or cash from resale thereof to secure the full payment and performance by Buyer of its liabilities and obligations to Seller. Buyer shall be in default under these Terms and Conditions of Sale, and the security interest created hereunder shall become enforceable if: (a) Buyer fails to pay the balance of the invoice value when due or fails to remedy any other default within ten (10) days after being notified of such default by Seller; (b) Buyer threatens, appears to or ceases to carry on its business or substantially changes the nature of its business, all as determined by Seller in its sole discretion; (c) Buyer becomes or acknowledges being insolvent, becomes bankrupt or generally takes measures to arrive at a compromise, an arrangement or an agreement with its creditors, or arrives at the liquidation of its assets or its bankruptcy; (d) proceedings are instituted against Buyer in order to liquidate its assets or declare it bankrupt, which are not diligently contested by Buyer and are not dismissed or cancelled within twenty-one (21) days from the day on which they are instituted; (e) a prior notice is given by a creditor purporting to hold or holding a prior claim of its intention to exercise its purported or prior claim or any other security interest, or if such right or security interest is exercised or if a secured creditor takes possession or appoints a receiver with respect to any part of the Goods sold; or (f) an order of execution is filed against the Buyer or a seizure is brought against the Goods sold and should it not be quashed within ten (10) days thereafter. Buyer acknowledges that this document may be filed with the appropriate authorities as a financing statement and agrees to execute and deliver such documents as Seller may request in order to perfect its security interest. Seller’s rights hereunder are in addition to and not in limitation of any other rights Seller may have at law, including Seller’s lien rights with respect to the land or buildings into which the Goods have been incorporated.
7. **Warranties** –Products manufactured by third parties. Seller makes no warranty and any and all implied warranties of merchantability or fitness for use whether statutory or otherwise implied in respect of Goods sold by Seller and manufactured by third parties are hereby excluded. Goods manufactured by third parties are sold only with such warranties as may be extended by the manufacturer of the product. Services performed by third parties are subject only to those warranties extended by third parties. Buyer is responsible for installation and use in accordance with manufacturer’s instructions. Seller specifically does not adopt or assume any responsibility for the enforcement of the warranties of third party manufacturers. Buyer acknowledges that it

has inspected the Goods and that it is buying such Goods in reliance on the manufacturer's warranty only. Seller's personnel are not authorized to alter this policy. No separate or extended warranty shall apply to defective Goods or to any parts or parts thereof manufactured by third parties.

8. **Warranties** – Products manufactured by Seller. Seller warrants to Buyer only, that all Goods sold and manufactured by Seller hereunder are free, under normal use and maintenance, from defects in material and workmanship, for a period of 90 days from delivery of the Goods. If within the applicable warranty period, as may be amended by Seller from time to time, Seller receives from Buyer written notice of any alleged defect in the Goods, and when Seller acknowledges its sole discretion that such defect is due to faulty material or workmanship at the time of manufacture (Buyer having provided Seller a reasonable opportunity to perform appropriate tests thereon), Seller shall, at its sole option and expense, either repair or replace the defective Goods. Seller shall have the right to require Buyer to deliver the Goods for such repair or replacement to a designated service center. Any Goods that are repaired or replaced by Seller are warranted to be free from defects in material or workmanship at the time of manufacture for the time period originally applicable to the Goods. No separate or extended warranty shall apply to the repaired Goods or to any part or parts thereof.
9. **Limitation of Liability.** THE FOREGOING IS THE SOLE WARRANTY OF THE SELLER IN CONNECTION WITH THE GOODS AND IS IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS (EXPRESS AND IMPLIED AND THOSE ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE), INCLUDING BUT NOT LIMITED TO WARRANTIES OR CONDITIONS OF MERCHANTABILITY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE. NO OTHER WARRANTIES OR CONDITIONS EXPRESSED OR IMPLIED ARE GIVEN. As a service to Buyer, Seller may have provided advice or recommendations with respect to the Goods for Buyer's intended use, which advice or recommendations were provided as a guide only for Buyer's verification, and the Seller does not assume any risk or liability based on or relating to Buyer's use of such advice/recommendations. Seller's liability on any claims for loss or damage arising out of this contract or the performance or breach or connected with the supplying of any Goods or services hereunder, or the sale, resale, operation or use of such Goods, whether based civil liability (whether contractual or extra-contractual), warranty, tort (including negligence) or other grounds, shall not exceed the price allocable to such Goods or parts thereof involved in the claim, REGARDLESS OF CAUSE OR FAULT. THIS LIMITATION OF LIABILITY REFLECTS A DELIBERATE AND BARGAINED FOR ALLOCATION OF RISKS BETWEEN SELLER AND BUYER AND CONSTITUTES THE BASIS FOR THE PARTIES' BARGAIN WITHOUT WHICH SELLER WOULD NOT HAVE AGREED TO THE PRICE OR TERMS OF THIS CONTRACT. Seller shall not, under any circumstances, be liable for any labor charges without its prior written consent. SELLER SHALL NOT IN ANY EVENT BE LIABLE whether as a result of breach of contract, warranty, tort (including negligence) or other grounds for INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, including but not limited to, loss of profits or revenue, loss of use of the Goods or any associated products, cost of capital, cost of substitute products, facilities or services, downtime costs, or claims of customers of Buyers for

such damage. If Seller furnishes Buyer with advice or other assistance which concern any Goods supplied hereunder, or any system or equipment in which any such Goods may be installed, and which is not required pursuant to this contract, the furnishing of such advice or assistance will not subject Seller to any liability, whether based on contract, warranty, tort (including negligence) or other grounds. Buyer shall assume all such responsibility, risk and liability, whether or not the Goods were selected or used in accordance with the Seller's recommendations, assistance or instructions, and Buyer shall indemnify and save harmless Seller from and against all liability, loss, costs, damages, claims or expenses in respect thereof.

- 10. Release and Indemnity.** Buyer releases the Seller from any liability hereunder for personal injury or damage to property arising from the Goods sold hereunder and agrees not to sue Seller under any theory, including strict liability, tort, negligence, contract or otherwise, for any claim or demand arising in any manner from the Goods sold hereunder. Buyer represents and warrants that it is familiar, and is responsible for compliance, with all OSHA rules and regulations, including safety standards for working at heights and fall protection, which may be relevant in respect of the Goods sold hereunder. Buyer shall indemnify, defend and hold harmless the Seller, its affiliates and their respective officers, directors, managers, employees, representatives and agents from and against any and all claims, demands, actions, damages or loss, including attorney's fees and costs, arising out of or in connection with, in whole or in part, the acts or omissions of Buyer, or any of Buyer's agents, employees, customers or subcontractors, including but not limited to bodily injury to persons, including death, and any and all damages to or loss of property arising therefrom, and any and all other damages recognized at law or in equity, provided however that Buyer shall not be liable to Seller for damages directly caused by the sole negligence of Seller.
- 11. Returned Goods by Buyer.** Seller reserves the right to refuse to accept Goods returned without its prior authorization in writing and Goods will not be accepted unless it is in the original package and package quantity. All authorized returns must be made within ten (10) days from the date of delivery, and must contain the invoice number and the date of purchase. All authorized returns to Seller's warehouses must be freight prepaid and shall be subject to a twenty percent (20%) return charge, or a minimum of fifty dollars (\$50.00) whichever is greater, plus reconditioning charges, restocking charges or repackaging charges. No return charge is applicable where the return is necessitated through an administrative error on the part of Seller or if the return is for repair or replacement pursuant to the warranty of Seller set out in these Terms and Conditions of Sale. All shortages and/or overages and/or damaged Goods must be identified within 24 hours of the date of shipment. **There are no returns for special order items.**
- 12. Assignment.** These Terms and Conditions of Sale shall be binding on and ensure to the benefit of the respective successors and permitted assigns of the parties. Buyer shall not assign any or all of its duties hereunder without the prior written consent of Seller, which may be withheld for any reason in Seller's sole discretion. No warranty shall be assignable under any circumstances.

13. **Force Majeure.** Seller shall not be liable for any loss or damage due to delayed delivery or performance or non-delivery, in whole or in part, if such delayed delivery or performance or non-delivery is caused by i) a cause beyond its reasonable control; or ii) an act of God, act or omission of Buyer, act of civil or military authority, governmental priority or other allocation or control, embargoes, natural catastrophes, pandemics or epidemics, unusual severe weather, floods, fire, strike, or other labor difficulty, labor strikes or disputes, riot or other civil disturbance, insolvency or other inability to perform by the manufacturer, delay in transportation; or iii) any other commercial impracticability, including failure of computer or telecommunications systems to operate properly, destruction or loss of electronic records or data, plant shutdowns, unavailability of materials or components, unavailability of or delays in transportation, insufficient production capacity, governmental requests, laws, regulations, orders or actions. In the event of any such delay, the date of delivery or performance shall be extended for a period equal to the time lost by reason of delay. Additional charges for local delivery may also apply.
14. **Applicable Law; Severability; Amendment.** These Terms and Conditions of Sale shall be governed by the laws of the province where the Seller branch supplying the Goods is situated, without reference to the choice of law, conflicts of law, or principles of any province or country which might otherwise be applied. The parties hereto agree that the United Nations Conventions on Contracts for the International Sale of Goods does not apply to these Terms and Conditions of Sale and is strictly excluded. If any provision of these Terms and Conditions of Sale is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired, and the parties shall use their best efforts to substitute a valid, legal and enforceable provision, which, insofar as practical, implements the purpose of these Terms and Conditions of Sale. Liberty reserves the right to unilaterally modify or amend any portion of these Terms and Conditions of Sale at any time without prior notice effective immediately upon posting at the Liberty website ([www.libertyroofingcenter.com](http://www.libertyroofingcenter.com)).