

Terms and Conditions of Sale

- Acceptance. The division, affiliation or subsidiary of Holcim Ltd. that references these Terms (including Holcim Solutions and Products US, LLC.) is herein referred to as “Holcim,” and the customer purchasing products (“Products”) or services (“Services”) from Holcim is referred to as (“Purchaser”). These terms and conditions of sale (“Terms”), any Holcim quotation, acknowledgment or invoice, all Product Documentation (as defined below) and all documents incorporated by specific reference herein or therein (“Holcim Documents” and together with these Terms, the “Agreement”), constitute the complete terms governing the sale of Products and Services. “Product Documentation” means the Technical Data Sheet, Product Data Sheet and Product Label associated with each Product. Holcim HEREBY REJECTS ANY ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS PROPOSED BY PURCHASER, WHETHER OR NOT CONTAINED IN ANY OF PURCHASER’S BUSINESS FORMS OR IN PURCHASER’S WEBSITE, AND SUCH ADDITIONAL OR DIFFERENT TERMS WILL BE OF NO EFFECT. No site usage agreement or any other click through agreement on a website will have any binding effect whether or not Holcim clicks on an “ok,” “I accept,” or similar acknowledgment. Commencement of any work by Holcim or Purchaser’s acceptance of delivery of the Products or Services will manifest Purchaser’s assent to the Agreement. Additional or different terms applicable to a particular sale may be specified in the body of a Holcim Document or agreed to in writing by the parties. In the event of a conflict, the following order of precedence will apply: (a) terms agreed to in writing and executed by an authorized officer of Holcim; (b) Product Documentation (as it applies to the specific Product referenced therein), (c) Holcim Document terms; (d) these Terms.
- Quotations. Quotations are only valid in writing and for 30 days from the date of the quotation. All quotations are subject to change or withdrawal without prior notice to Purchaser. Quotations are made subject to approval of Purchaser’s credit. Holcim may refuse orders and has no obligation to supply Products or Services unless Holcim issues an order acknowledgement or upon the shipment of Products or commencement of Services.
- Prices and Payment Terms. Prices are in U.S. Dollars and are subject to change without notice. All orders are accepted subject to Holcim’s price in effect at time of shipment. Prices do not include any sales, use, value-added or other taxes, import duties, license fees or like charges (“Fees”) related to the sale, importation or use of Products or Services, and Purchaser is responsible for those Fees. If Holcim is subsequently required to pay any Fees, Purchaser shall fully defend and indemnify Holcim therefor. Terms of payment are 30 days net from the date of Holcim’s invoice. Overdue invoices will incur interest at the rate of 1.5% per month, or at the maximum rate allowable by governing law. Purchaser’s inspection rights herein will not affect the payment terms. Purchase must notify Holcim within 90 days of receiving any invoice of any errors, inaccuracies or mistakes included thereon, and Purchaser agrees that after 90 days, it waives any and all claims against Holcim related to any such errors, inaccuracies or mistakes. Under no circumstances will Purchaser have a right of set-off. If Purchaser fails to make any payment as required, Purchaser agrees to indemnify Holcim for all associated costs incurred by Holcim, including reasonable attorney fees and court costs.
- Credit Approval. All shipments are subject to approval by Holcim’s credit department. Holcim may invoice Purchaser and recover for each shipment as a separate transaction. If, in Holcim’s sole judgment, Purchaser’s financial condition is or becomes unsatisfactory, then Holcim may, without prejudice to any of its other remedies: (a) defer or decline to make any shipments except upon receipt of satisfactory security or cash payments in advance; and/or (b) terminate any or all of Purchaser’s purchase orders.
- Cancellation or Modification. Holcim may cancel any purchase order or release thereunder or terminate any agreement relating to the purchase of Holcim’s Products or Services upon reasonable prior written notice to Purchaser. Once Holcim has accepted a purchase order or

Terms and Conditions of Sale

begun taking actions with respect to a purchase order, Purchaser cannot cancel or modify that purchase order except with Holcim's written consent. In such event, Purchaser will be liable for cancellation or modification charges and all costs incurred and committed for the order or in connection with the cancellation or modification, as applicable, together with a reasonable allowance for prorated expenses and anticipated profits.

6. Inspection / Non-Conforming Shipments. Purchaser may inspect Products for a period of 3 days after delivery ("Inspection Period"). Purchaser must notify Holcim in writing of any Products that do not conform to the specifications applicable to their sale within the Inspection Period and afford Holcim a reasonable opportunity to inspect such Products and cure any nonconformity. If Purchaser fails to provide Holcim such written notice within the Inspection Period, Purchaser will be deemed to have accepted the Products. Notwithstanding the foregoing, for any defects visible at the time of delivery (including, without limitation, damaged packaging, broken crates, incorrect quantities, etc.), Purchaser must note such defect on the Bill of Delivery concurrently with its receipt of such delivery, and if Purchaser does not update the Bill of Delivery accordingly, Purchaser waives all claims arising from or related to such visible defects. Any variation in quantities shipped over or under those ordered (not to exceed 10%) will constitute compliance with Purchaser's order, and the stated price per item will continue to apply.
7. Delivery. Holcim anticipates use of common carriers for shipment of Products. The carrier, and not Holcim, will bill for freight rates and other shipping charges. Payments for such charges shall be paid by Purchaser directly to the carrier. All Products will be shipped ExWorks Holcim's facility (Incoterms 2020). Shipping dates are approximate and are based upon prompt receipt of all necessary information from Purchaser. Holcim may ship items in a single or multiple shipments. Title to the Products shall pass to Purchaser upon delivery to the carrier. Purchaser assumes all risk and liability for loss and use or misuse by third parties who acquire or use the Products illicitly after delivery to the carrier. Purchaser must notify Holcim and the delivering carrier within 15 business days from date of receipt of Products, of any damage or shortage, and afford Holcim a reasonable opportunity to inspect the Products. Any loss occasioned by damage or shrinkage in transit will be for Purchaser's account and claims for such loss must be made solely against the carrier.
8. Returns. Purchaser may not return any Product without Holcim's prior written authorization. Purchaser will be responsible for all costs associated with returns of Products and will bear the risk of loss, unless Holcim agrees otherwise in writing or determines that the Products do not conform to the applicable terms of sale.
9. Warranty. Holcim warrants that it will convey the Products free and clear of all liens, security interests and encumbrances created by, through or under Holcim. Holcim further warrants that for a period of 6 months from the date of delivery to the common carrier (the "Warranty Period"), under normal use and given proper installation and maintenance as determined by Holcim, the Products: (a) will conform to the physical properties in the Product's Technical Data Sheet (or Product Data Sheet) and to Holcim's published written specifications, if any; and (b) will be free from substantial defects in material and workmanship. Product Documentation may set forth a different Warranty Period for any given Product, and the Warranty Period specified on a Product's Product Documentation shall control. If any Product Documentation lists a Product "shelf life" or any similar designation, such period shall constitute the Warranty Period for such Product. In the event of a breach of the warranties set forth above (the "Warranties"), Holcim's sole liability and Purchaser's sole remedy will be (at Holcim's option), for Holcim to repair, replace or credit Purchaser's account for, any Product that fails to conform to the Warranties, provided that (i) during the Warranty Period Holcim is promptly notified in writing upon discovery of such failure with a detailed explanation of any alleged deficiencies; (ii) Holcim is given a reasonable opportunity to investigate all

Terms and Conditions of Sale

claims; and (iii) Holcim's examination of such Product confirms the alleged deficiencies and that the deficiencies were not caused by accident, misuse, use with any equipment or tools other than any "approved equipment" or "approved tools" specified on any Product Documentation, if applicable, neglect, improper installment, unauthorized alteration or repair, improper testing, or noncompliance with any instructions, warnings, requirements or specifications included on any Product Documentation. Any additional limitation or exclusion contained in any Product Documentation are incorporated herein. The Warranty against defects does not apply to: (1) consumable components or ordinary wear items; or (2) use of the Products with equipment, components or parts not specified or supplied by Holcim or contemplated under the Product Documentation. EXCEPT AS SET FORTH ABOVE, Holcim MAKES NO WARRANTY OR REPRESENTATION OF ANY KIND, EXPRESS OR IMPLIED (INCLUDING NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE).

10. Service Warranty. Holcim warrants that (a) it will perform Services in a timely, competent and professional manner and in accordance with industry standards; and (b) the Services shall conform to any applicable specifications or statement of work.
11. Limitation of Liability and Remedies. Holcim WILL NOT BE LIABLE, AND PURCHASER WAIVES ALL CLAIMS AGAINST Holcim, FOR INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, DOWN TIME, LOST PROFITS OR COMMERCIAL LOSSES, WHETHER OR NOT BASED UPON Holcim'S NEGLIGENCE OR BREACH OF WARRANTY OR STRICT LIABILITY IN TORT OR ANY OTHER CAUSE OF ACTION. IN NO EVENT WILL HOLCIM'S LIABILITY IN CONNECTION WITH THE AGREEMENT OR SALE OF HOLCIM'S PRODUCTS OR SERVICES EXCEED THE PURCHASE PRICE OF THE SPECIFIC PRODUCTS OR SERVICES AS TO WHICH THE CLAIM IS MADE.
12. Product Use. Purchaser is solely responsible for determining if a Product is fit for a particular purpose and suitable for Purchaser's method of application. Accordingly, and due to the nature and manner of use of Holcim's Products, Holcim is not responsible for the results or consequences of use, misuse or application of its Products. All physical properties, statements and recommendations are either based on the tests or experience that Holcim believes to be reliable, but they are not guaranteed.
13. Tooling/Molds/Dies. All material, equipment, facilities and special tooling (including tools, jigs, dies, fixtures, molds, patterns, special taps, special gauges, special test equipment and manufacturing aids and replacements thereof) used in the manufacture of the Products will remain the property of Holcim. Any material, tooling or equipment furnished to Holcim by Purchaser will remain the property of Purchaser with title to and right of possession remaining in Purchaser.
14. Consignment. If Products are sold on a consignment basis, title in such Products will not pass to Purchaser until the earlier of: (a) the time the Product is removed from inventory for use; or (b) the date that is 90 days from the Product's shipment date. Holcim will have a purchase money security interest in consigned Products and may file a financing statement in accordance with the Uniform Commercial Code. Purchaser agrees to store consigned Products in a segregated area and will install and/or maintain any signs or other devices to clearly identify the Products as Holcim Products. Purchaser assumes the risk of loss of all consigned Products. Purchaser shall insure consigned Products at Purchaser's expense in amounts at least equal to the replacement value.
15. Ownership of Intellectual Property. All drawings, know-how, designs, specifications, inventions, devices, developments, processes, copyrights and other information or

Terms and Conditions of Sale

intellectual property disclosed or otherwise provided to Purchaser by Holcim and all rights therein (collectively, "Intellectual Property") will remain the property of Holcim and will be kept confidential by Purchaser in accordance with these Terms. Purchaser has no claim to, nor ownership interest in, any Intellectual Property, and such information, in whatever form and any copies thereof, shall be promptly returned to Holcim upon request from Holcim. Purchaser acknowledges that no license or rights of any sort are granted to Purchaser hereunder in respect of any Intellectual Property, other than the limited right to use Holcim's Products or receive the Services purchased from Holcim.

16. Use of Trademarks and Trade Names. Purchaser shall not use, directly or indirectly, in whole or in part, Holcim's name, or any other trademark or trade name that is now or may hereafter be owned by Holcim (collectively the "Trademarks"), as part of Purchaser's corporate or business name, or in any way in connection with Purchaser's business, except in a manner and to the extent authorized herein or otherwise approved by Holcim in writing. Purchaser hereby acknowledges Holcim's ownership of the Trademarks and the goodwill associated therewith. Purchaser shall not infringe upon, harm or contest the validity of any Trademarks. Purchaser shall be entitled to use the Trademarks only in connection with the promotion or sale of the Authorized Products pursuant to the terms of the Agreement. Purchaser shall reproduce the Trademarks exactly as specified by Holcim. Purchaser shall not use the Trademarks in combination with any other trademarks or names. Purchaser agrees that it will not register or attempt to register any Trademark or any colorable imitation thereof (including any non-English language variation thereof), or use such Trademarks for any products or for any purposes other than those set forth in the Agreement. Purchaser shall not at any time during or after termination of the Agreement use in its business any other trademark that is similar to or in any way resembles the Trademarks so as to be likely to cause deception or confusion with the Trademarks. Purchaser shall provide reasonable cooperation to Holcim with respect to any efforts of Holcim to protect, defend or enforce its rights to the Trademarks. Should Purchaser cease being an authorized customer of Holcim for any reason, Purchaser shall immediately discontinue any formerly permitted use of Holcim's name or the Trademarks.
17. Confidential Information. All information furnished or made available by Holcim to Purchaser in connection with the subject matter hereof shall be held in confidence by Purchaser. Purchaser agrees not to use (directly or indirectly), or disclose to others, such information without Holcim's prior written consent. The obligations in this section will not apply to any information that: (a) at the time of disclosure was or thereafter becomes generally available to the public by publication or otherwise through no breach by Purchaser of any obligation herein; (b) Purchaser can show by written records was in Purchaser's possession prior to disclosure by Holcim; or (c) is legally made available to Purchaser by or through a third party having no direct or indirect confidentiality obligation to Holcim with respect to such information.
18. Audit. Unless agreed to in writing by an officer of Holcim, neither Purchaser nor any Purchaser representative, may examine or audit Holcim's cost accounts, books or records of any kind or any matter, or any other data that Holcim, in its sole discretion, considers confidential or proprietary.
19. Infringement and Indemnification. Except as set forth below, Holcim agrees to defend and indemnify Purchaser against any claims, costs, damages, liability and expenses resulting from actual patent, trademark or copyright infringement, misappropriation of confidential information, or violation of any other Intellectual Property right, domestic or foreign that may arise from the sale of Holcim's proprietary Product to Purchaser as such pertains to the subject matter of the Agreement (each, a "Claim"); provided, however, (a) Purchaser supplies Holcim written notice of such Claim immediately after the Purchaser has notice of such Claim,

Terms and Conditions of Sale

(b) Purchaser cooperates with Holcim in the defense and settlement of such Claim; and (c) Purchaser allows Holcim the right to defend and settle such Claim at Holcim's expense if a suit or claim results in any injunction or order that would prevent Holcim from supplying any part or Product falling under the Agreement, or if the result of such a suit or claim would, in the reasonable opinion of Holcim, otherwise cause Holcim to be unable to supply such parts or Products, Holcim may do one or more of the following: (i) secure an appropriate license to permit Holcim to continue supplying those parts or Products; (ii) modify the appropriate part or Product so that it becomes non-infringing; (iii) replace the appropriate part or Product with a non-infringing but practically equivalent part or Product; or (iv) if Holcim cannot reasonably accomplish the actions specified in subsections (i) – (iii), then in Holcim's sole discretion, Holcim may discontinue selling the part or Product without any further liability to Purchaser. Notwithstanding the foregoing, Holcim shall have no liability or duty to defend and indemnify Purchaser against any Claim relating to: (1) the use of any part or Product, (2) the combination of any part or Product with any other part or product not supplied by Holcim, or (3) any part or Product or process that is designed or specified by Purchaser.

20. Holcim Employees. Holcim sales and service employees do not have the training or authority to make legal representations or enter into any agreements or execute any Purchaser documents affecting legal responsibilities or waiving legal rights, including those regarding the transfer of intellectual property rights or related to privacy laws. Any such representations, agreements or documents will not be binding on Holcim or such Holcim employees.

21. Service Terms. The following terms and conditions apply to any on-site Services provided by Holcim:

- a. Services will be provided at Holcim's then current service rates.
- b. Purchaser shall prepare the site for the Services. If the site is not prepared for the Services upon Holcim service personnel's arrival at the agreed upon time and date for Services, Holcim may charge Purchaser for any delay and/or travel time at Holcim's regular service rates.
- c. Purchaser shall provide Holcim with advance notice of any rules, regulations, statutes and requirements applicable to the Services, including any required permits and licenses, that are applicable to Purchaser's local jurisdiction.
- d. Holcim may refuse, without any liability, to provide Services and to allow Holcim service personnel to suspend Services or vacate any site where, in Holcim's opinion, performance of Services would pose a risk to the safety of any person. In such event, Purchaser is responsible for payment of any delay and/or travel time at Holcim's regular service rates.
- e. Purchaser is solely liable for all damages or injuries caused or contributed to by Purchaser that may occur on the site, except to the extent damages or injuries are directly caused by the gross negligence or willful misconduct of Holcim service personnel.
- f. Purchaser must provide at least 24 hours' notice of cancellation of any Service order. If Purchaser cancels with less than 24 hours' notice, Purchaser is responsible for any costs incurred by Holcim caused by such cancellation.

22. Compliance. Purchaser agrees to comply with all federal, state, local and foreign rules, regulations, ordinances and laws applicable to Purchaser's obligations hereunder and Purchaser's use of the Products and Services, including import/export laws, labor laws and

Terms and Conditions of Sale

anti-corruption laws.

23. Relationship of the Parties. Nothing in the Agreement or the course of dealing of the parties may be construed to constitute the parties hereto as partners, joint venturers or as agents for one another or as authorizing either party to obligate the other in any manner.
24. Force Majeure. Holcim will not be responsible for failure to perform in a timely manner under the Agreement when its failure results from events beyond its reasonable control (an event of "Force Majeure"), including acts of God, epidemics, acts of war whether declared or undeclared, blockades, labor disputes (whether of Holcim's employees or the employees of others), raw material shortages and material increases in costs of raw materials. In the event of Force Majeure, the time for performance will extend for such time as reasonably necessary to enable Holcim to perform.
25. Assignment; Binding Effect. No assignment of any rights or interest or delegation of any obligation of Purchaser under the Agreement or Purchaser's purchase order may be made without Holcim's prior written consent. Any attempted assignment will be void. Holcim may assign the Agreement or otherwise transfer its rights and/or obligations under the Agreement. The Agreement will inure to the benefit of and be binding upon the parties and their respective permitted successors and assigns.
26. Waiver. In the event of any default by Purchaser, Holcim may decline to ship Products or provide Services. If Holcim elects to continue shipping or otherwise fails to insist upon strict compliance with the Agreement, Holcim's actions will not constitute a waiver of Purchaser's default or any other existing or future default, or affect Holcim's legal remedies.
27. Bankruptcy. If either party becomes insolvent, is unable to pay its debts when due, files for or is the subject of involuntary bankruptcy, has a receiver appointed or has its assets assigned, the other party may cancel any unfulfilled obligations hereunder.
28. Applicable Law; Entire Agreement. The construction, validity, and performance of the Terms for Sale shall be governed by the internal laws of the State of Tennessee, without regard to its conflict of law provisions, and Buyer expressly submits to jurisdiction of appropriate courts of Tennessee for the trial of any lawsuits arising from the contract for sale. Any action by Buyer for breach of the contract for sale must be commenced within one (1) year after the cause of action has accrued. This document, including those regulations specifically incorporated by reference, constitutes the full understanding of the parties, and any terms, unless hereafter made in writing
29. Survival. Any provisions in the Agreement which, by their nature, extend beyond the termination or expiration of any sale of Products or Services, will remain in effect until fulfilled.
30. Severability. If any provision herein is held to be unlawful or unenforceable, the remaining provisions herein will remain in effect.
31. Integration and Modification. The Agreement constitutes the entire agreement between Holcim and Purchaser with respect to the Products and Services covered by the Agreement, and supersedes any prior agreements, understandings, representations and quotations with respect thereto. No modification hereof will be of any effect unless in writing and signed by the party to be bound thereby.