

**CHEMEX MODULAR, LLC**  
**Sale Order Terms and Conditions**

**Article I**  
**Sales Within the Continental United States**

1. **Applicability.** This Article I shall apply to sales of Equipment within the continental U.S. pursuant to this Sale Order.
2. **Definitions.**
  - (a) **“Buyer”** means the party with whom Seller is contracting pursuant to this Sale Order.
  - (b) **“Claim”** or **“Claims”** means any and all judgments, claims, causes of action, demands, lawsuits, suits, proceedings, governmental investigations or audits, losses, assessments, fines, penalties, administrative orders, obligations, costs, expenses, liabilities and damages (whether actual or consequential), including interest, penalties, reasonable attorney’s fees, disbursements and costs of investigations, deficiencies, levies, duties and imposts.
  - (c) **”Equipment”** means the goods, materials, articles, items, parts, components or assemblies described in this Sale Order.
  - (d) **“Event of Force Majeure”** means any event or circumstance that directly or indirectly prevents a Party from performing an obligation under this Agreement and is beyond the reasonable control of, and occurs without the negligence of, the Party obligated to perform the relevant obligation.
  - (e) **“FAS”** means Free Alongside Ship, per Incoterms 2010 edition.
  - (f) **“FCA”** means Free Carrier, per Incoterms 2010 edition.
  - (g) **“Party”** means Seller or Buyer, individually, and **“Parties”** means Seller and Buyer, collectively.
  - (h) **“Sale Order”** means this Sale Order, including these Sale Order General Terms and Conditions, which are incorporated into this Sale Order.
  - (i) **“Seller”** means Chemex Modular, LLC.
  - (j) **“U.S.”** means United States of America.
3. **Applicability of Terms.** These Sale Order General Terms and Conditions constitute a part of and apply to this Sale Order, except to the extent that the face of this Sale Order expressly provides otherwise.
4. **Pricing.** Prices to be paid for Equipment are the Purchase Prices listed on the face of this Sale Order, in U.S. Dollars, and include all shipping and delivery charges, unless otherwise provided for on the face of this Sale Order.
5. **Financial Responsibility.**
  - (a) **Financial Responsibility.** Buyer will provide Seller such forms, applications and other documents as are necessary for Seller to determine what taxes and extension of credit, if any, Seller will make for Equipment supplied pursuant to this Sale Order. Buyer will

complete such forms, provide permission for Seller to verify references and provide further credit assurances or documents as are necessary in Seller's sole judgment.

- (b) **Security.** Notwithstanding anything to the contrary in this Sale Order, should Seller reasonably believe it necessary to assure payment, Seller may at any time require, by written notice to Buyer, advance cash payment or satisfactory security in the form of a letter or letters of credit at Buyer's expense in a form and from a bank acceptable to Seller. If Buyer does not provide the payment or letter(s) of credit, Seller may terminate this Sale Order as provide herein.

6. **Payment Terms; Overdue Payments; Right to Stop Work.**

- (a) **Payment Terms.** All payments must be made in immediately available funds in U.S. Dollars per the terms on the face of this Sale Order. Seller may invoice parts of this Sale Order separately.
- (b) **Interest on Late Payments.** If Buyer fails to pay to Seller any sum or sums when due under this Sale Order, Buyer shall pay the said sum or sums with interest calculated at the lower of (i) the maximum rate allowable under applicable law or (ii) a simple interest rate per annum (no compounding) equal to eighteen percent (18.00 %).
- (c) **Right to Stop Work.** If any overdue payment is not received by Seller within seven (7) days from the due date thereof, in addition to any other rights Seller may have, Seller shall have the right to stop work hereunder until payment of the full amount owing to Seller (including interest) has been received by Seller.

7. **Inspections.** Buyer may from time to time schedule an inspection of all or any part of used and/or refurbished Equipment hereunder at Seller's facility prior to delivery, including all work product related thereto.

8. **Shipping; Delivery; Title and Risk of Loss.**

- (a) **Shipping.** Unless otherwise specified on the face of this Sale Order, all shipments of Equipment shall be made FCA Seller's Bakersfield, California facility.
- (b) **Delivery; Title and Risk of Loss.** Delivery of Equipment shall take place, and title and risk of loss shall pass from Seller to Buyer, when physical possession of the Equipment is given to Buyer or to a carrier for shipment to Buyer, whichever comes first.

9. **Delivery Schedule.** Stated delivery schedules or dates in this Sale Order are estimates only and are not a commitment as to delivery on specified dates.

10. **No Cancellation.** All Equipment sales are final. Buyer shall not have the right to cancel or otherwise terminate this Sale Order, except pursuant to Section 14. (a) hereof.

11. **Taxes.** Buyer shall be responsible for and shall pay all taxes which may be assessed or levied directly or indirectly by any governmental authority relating to the Equipment, except for taxes based on Seller's net income.

12. **Liens.** Seller shall indemnify and hold Buyer harmless from all liens and other encumbrances against Buyer's property on account of debts or liens alleged to be due from Seller to any person, including subcontractors, and on behalf of Buyer and in Buyer's name, shall defend at its own expense any Claim in connection therewith.

13. **Force Majeure.** In the event either Party is rendered unable, wholly or in part, by an Event of Force Majeure, to carry out its obligations under this Sale Order, other than to make money

payments when due, such Party shall give Notice and full particulars of such Event of Force Majeure to the other Party within a reasonable time after the occurrence of the cause relied on, and the obligations of the Party giving such Notice, so far as they are affected by such Event of Force Majeure, shall be suspended during the continuance of any inability so caused but for no longer period, and such cause shall as far as possible be remedied with all reasonable dispatch. Notwithstanding the foregoing, it is understood that the settlement of strikes or lockouts shall be entirely within the discretion of the Party having the difficulty. The above requirement that any Event of Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes or lockouts by acceding to the demands of the opposing party when such course is inadvisable in the discretion of the Party having the difficulty.

**14. Termination.**

- (a) **Termination by Buyer.** Buyer may terminate this Sale Order upon written notice to Seller, if Seller fails to perform or otherwise breaches this Sale Order, files a petition in bankruptcy, becomes insolvent, or dissolves. In the event of such termination Buyer shall pay Seller for the portion of the Equipment delivered to Buyer through the date of termination.
- (b) **Termination by Seller.** Seller may terminate this Sale Order upon written notice to Buyer, if Buyer fails to perform or otherwise breaches this Sale Order, fails to make payments to Seller when such payments are due, files a petition in bankruptcy, becomes insolvent, or dissolves. In the event of such termination, Seller shall be entitled to reimbursement for actual costs and expenses, and twenty five percent (25.00%) of the total Purchase Price set forth on the face of the Sale Order.
- (c) **Effect of Termination.** Upon the termination of this Sale Order for any reason, each Party shall be released from all obligations to the other arising after the date of termination, except for those which by their terms survive such termination.

**15. Limited Warranties.**

- (a) **New Equipment.** Seller warrants that: (i) it has good title to new Equipment acquired by Seller from third party vendors; (ii) such Equipment is free of liens and encumbrances; and (iii) such Equipment shall conform to the description set forth on the face of this Sale Order. Seller is not the manufacturer of such Equipment and Seller makes no other warranties with respect to such Equipment; however, Seller will use reasonable efforts to pass on to Buyer the benefit of any valid and existing warranty given by the manufacturer of such Equipment to the extent Seller is permitted to do so without itself being directly liable to the manufacturer or to Buyer.
- (b) **Refurbished Equipment.** Seller warrants that: (i) it has good title to Equipment that is has fabricated or refurbished; (ii) such Equipment is free of liens and encumbrances, (iii) such Equipment shall conform to the description set forth on the fact of this Sale Order; and (iv) such Equipment will be free from defects in materials and workmanship for a period of one (1) year from delivery.
- (c) **Used Equipment.** Seller warrants that: (i) it has good title to used Equipment, (ii) such Equipment is free of liens and encumbrances; and (iii) such Equipment shall conform to the description set forth on the face of this Sale Order. Seller makes no other warranties with respect to such Equipment. Used Equipment is sold “AS IS” with all faults.
- (d) **No other Warranties.** **The only warranties made by Seller are expressly stated in this Section 15. Any other statement in this Sale Order shall not be deemed to constitute a warranty. THE WARRANTIES SET FORTH IN THIS SECTION ARE EXCLUSIVE AND ARE IN LIEU OF ANY AND ALL OTHER**

**WARRANTIES FROM SELLER, WHETHER STATUTORY, EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND/OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE).**

**16. Buyer's Remedies.**

- (a) **Buyer's Remedies.** Seller, at its sole cost and expense, shall repair, replace or correct, at Seller's sole option, any defects in refurbished Equipment caused by faulty design, workmanship, or refurbished components furnished by Seller, of which Seller receives notice during the warranty period. The limited warranty made by Seller in Section 15. (b) hereof does not cover and Seller shall not be obligated to repair, replace or correct all or any part of refurbished Equipment when such defects are not directly attributable to defects in design, workmanship or refurbished components, such as, but not limited to, abnormal use; abuse; neglect; disaster; improper installation, maintenance, adjustment operation, or repair; accident alteration; operation by unqualified operators; damaging service conditions; failure to adhere to feed specifications, or similar causes.
- (b) **Limitation of Liability.** **THE REMEDIES PROVIDED IN THIS SECTION 16. ARE BUYER'S SOLE REMEDIES FOR ANY FAILURE OF SELLER TO COMPLY WITH ITS WARRANTY OBLIGATIONS.** Correction of any non-conformity in the manner and period of time provided in this Section shall constitute fulfillment of all the liabilities of Seller whether the Claims of Buyer are based on contract, in tort (including negligence and strict liability), in warranty or otherwise with respect to or arising out of workmanship or materials furnished hereunder. Seller's maximum liability under this Sale Order shall not exceed twenty-five percent (25%) of the Purchase Price.
- (c) **Consequential Damages.** Seller shall not be liable in contract, in tort (including negligence and strict liability), in warranty or otherwise for damage or loss of either property or equipment, delay, loss of profits or revenue, loss of use, cost of capital, good will, claims of Buyer's customers or users, or for any special, indirect, incidental or consequential damages whatsoever.

**17. Intellectual Property Indemnification.** Seller shall indemnify and hold harmless Buyer from and against all Claims arising out of or in any way relating to any alleged or actual patent, copyright, property right, trademark, or trade secret infringement. If the Equipment or any part thereof is held to constitute an infringement, and the use of the Equipment or any part thereof is enjoined, Seller shall, at its own expense, either procure for Buyer the right to continue using the Equipment, replace the infringing Equipment with non-infringing Equipment acceptable to Buyer, modify the Equipment so that it becomes non-infringing, or in the event the foregoing options are not possible, compensate Buyer for Buyer's expenses relating from the infringement.

**18. Independent Contractor.** Seller shall be an independent contractor with respect to its relationship to Buyer under this Sale Order. By virtue of entering into this Sale Order or performing work hereunder, Seller shall not be deemed to be a partner, agent, or attorney-in-fact of Buyer based on partnership, agency or other principles.

**19. Governing Law/Submission to Jurisdiction.** **THIS SALE ORDER SHALL BE CONSTRUED IN ACCORDANCE WITH LAWS GOVERNING CONTRACTS MADE AND TO BE PERFORMED IN THE STATE OF TEXAS, U.S., EXCLUSIVE OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS (1980), AS AMENDED. BUYER HEREBY CONSENTS TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN THE STATE OF TEXAS AND WAIVES ANY OBJECTION WHICH BUYER MAY HAVE**

**BASED ON IMPROPER VENUE OR FORUM NON CONVENIENCE TO THE CONDUCT OF ANY PROCEEDING IN ANY SUCH COURT.**

**20. Records and Audit.**

(a) **Records.** At all times while this Sale Order is in effect and for at least five (5) years following its expiration or termination, Buyer shall keep and maintain its books, records and accounts in reasonable detail to accurately, completely and fairly reflect its activities and transactions hereunder, including the recipient and nature of every payment or expenditure in connection with Buyer's activities hereunder. Buyer shall maintain its books, records and accounts in such form as to facilitate their inspection and auditing as provided for in this Section 20. (b) below.

(b) **Audit.** Seller or its designee shall have the right at all reasonable times during normal business hours to inspect, audit, and copy the books, records and accounts, including electronic communications and records, of Buyer which are related in any way to Buyer's performance under this Sale Order. Buyer shall make such books, records, and accounts immediately available for inspection, auditing, and copying at the request of Seller. This Sale Order may be terminated by Seller immediately in the event Buyer refuses to cooperate with Seller's rights to inspect, audit and copy under this Sale Order.

**21. Assignment.** Buyer shall not, without Seller's prior written consent, assign this Sale Order or any of its rights or obligations under this Sale Order. Subject to the foregoing, this Sale Order shall be binding upon, and shall inure to the benefit of, the successors and assigns of Buyer and Seller.

**22. Severability.** If any provision of this Sale Order or the application thereof is found to be invalid, illegal or unenforceable, to any extent and for any reason, it shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties. In any event, the remainder of this Sale Order and the application of such remainder shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

**23. Non-Waiver.** Seller shall not be deemed to have waived any right, power, privilege, or remedy unless such waiver is in writing and duly executed by it. No failure to exercise, delay in exercising, or course of dealing with respect to, any right, power, privilege, or remedy shall operate as a waiver thereof by Seller or of any other right, power, privilege, or remedy. No exercise or partial exercise of any right, power, privilege, or remedy shall preclude any other or further exercise thereof by Seller or the exercise of any other right, power, privilege, or remedy by Seller.

**24. Entire Agreement.** This Sale Order constitutes the entire agreement between the Parties relating to the subject matter hereof, and it supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, between the Parties relating to the subject matter hereof, and there are no warranties, representations, or other agreements between the Parties in connection with the subject matter hereof except as specifically set forth herein. General or special conditions of any of Buyer's price lists, invoices, tickets, receipts, or other documents presented to Seller relating to this Sale Order or the Equipment sold hereunder are null and void, regardless of whether signed by an employee of Seller.

**25. Amendments.** This Sale Order shall not be modified or amended, in whole or in part, except by a supplemental agreement signed by both Parties.

**26. Counterparts; Multiple Originals.** This Sale Order may be executed in any number of counterparts, all of which together shall constitute one agreement binding on each of the Parties. Each Party may sign any number of copies of this Sale Order. Each signed copy shall be an original, but all of them together shall represent the same agreement.

27. **Headings.** The Section headings used in this Sale Order have been inserted only for convenience to facilitate reference and shall not be determinative in construing the meaning, effect or application of any Section, or provision hereof.

**Article II**  
**International Sales**

1. **Applicability.** This Article II, together with Sections 2. through 7., 9., 10, 12. through 19., and 21. through 27. of Article I hereof, which by this reference are incorporated into and made a part of this Article II, shall apply to international Equipment sales pursuant to this Sale Order.

2. **Shipping; Delivery; Title and Risk of Loss.**

- (a) **Shipping.** Unless otherwise specified on the face of this Sale Order, all shipments of Equipment shall be made FAS.
- (b) **Delivery; Title and Risk of Loss.** Delivery of Equipment shall take place, and title and risk of loss shall pass from Seller to Buyer, when physical possession of the Equipment is given to Buyer or to a carrier for shipment to Buyer, whichever comes first.

3. **Taxes.**

- (a) **Generally.** Buyer shall be responsible for and shall pay all taxes which may be assessed or levied directly or indirectly by any governmental authority relating to the Equipment, except for taxes based on Seller's net income.
- (b) **Export/Import Taxes.** If the Equipment is to be exported to another country or jurisdiction, Buyer shall: (i) arrange for the importation of the Equipment from the delivery location set forth on the face of this Sale Order and pay any taxes required to be paid with respect to such importation of the Equipment; and (ii) arrange for the importation of the Equipment into any country or jurisdiction and pay any taxes required to be paid with respect to such importation of the Equipment.
- (c) **Records.** If the Equipment is to be exported to another country or jurisdiction, Buyer shall provide Seller with such records as Seller may request to document a non-taxable sale of the Equipment for export (including, but not limited to, bills of lading, copies of import documents of the foreign country or destination, notation on invoice of delivery, invoices for services of customs broker or forwarding agent, and delivery receipts).

4. **Records and Audit.**

- (a) **Records.** At all times while this Sale Order is in effect and for at least five (5) years following its expiration or termination, Buyer shall keep and maintain its books, records and accounts in reasonable detail to accurately, completely and fairly reflect its activities and transactions hereunder, including the recipient and nature of every payment or expenditure in connection with Buyer's activities hereunder. Buyer shall maintain its books, records and accounts in such form as to facilitate their inspection and auditing as provided for in this Section 4. (b) below.
- (b) **Audit.** Seller or its designee shall have the right at all reasonable times during normal business hours to inspect, audit, and copy the books, records and accounts, including electronic communications and records, of Buyer which are related in any way to Buyer's performance under this Sale Order. Buyer shall make such books, records, and accounts immediately available for inspection, auditing, and copying at the request of Seller. Buyer shall provide to Seller or its designee any additional information reasonably required for Seller: (i) to understand the materials contained in any such books, records,

and accounts; (ii) to trace any payments or expenditures in any way related to the procurement of orders for Seller's Equipment; and (iii) to ensure that Buyer has complied fully with the terms of this Sale Order, the U.S. Foreign Corrupt Practices Act, and any other applicable foreign and domestic anti-bribery and anti-corruption laws and other applicable laws and regulations. Buyer shall cooperate fully with any such audit and with any request from Seller to take recommended remedial actions to ensure compliance with the U.S. Foreign Corrupt Practices Act and the principles of Seller's policies relating to business practices. This Sale Order may be terminated by Seller immediately in the event Buyer refuses to cooperate with Seller's rights to inspect, audit and copy under this Sale Order.

**4. Commercial Practices.**

- (a) **Commercial Practices.** Buyer shall not engage in any commercial practices which violate the laws of the U.S. or the laws of any government or any political subdivision thereof. Buyer shall not make any payments or engage in any acts which would be contrary to applicable law, including but not limited to any applicable international agreements relating to bribery, such as the United Nations Convention against Corruption, the Organization for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the Organization of American States (OAS) Inter-American Convention Against Corruption, the Council of Europe (COE) Criminal Law Convention on Corruption, the laws of the U.S. (such as the Foreign Corrupt Practices Act), and the laws of any country in which Buyer operates.
- (b) **Compliance with Laws.** Buyer shall comply with all applicable laws of any country, state, province or locality in which Buyer operates. Without limiting the generality of the foregoing, Buyer shall comply with all applicable domestic and foreign anti-bribery and anti-corruption laws, and other laws governing improper payments, in connection with the performance of this Sale Order, including but not limited to, the substantive requirements of the U.S. Foreign Corrupt Practices Act, and similar laws in other jurisdictions. Buyer shall not act in a way that would cause Seller to be in violation of the U.S. Foreign Corrupt Practices Act or other applicable foreign or domestic anti-bribery or anti-corruption laws.
- (c) **Improper Payments.** Buyer shall not pay, offer, promise to pay, or authorize the payment or provision directly or indirectly of any money or anything of value to any government official (as hereinafter defined) or employee or to any political party, party official, political candidate, or official of a public international organization for the purpose of (i) securing an improper advantage, (ii) obtaining, retaining or directing business to any person, or (iii) inducing or rewarding any favorable action by the recipient in any commercial transaction or in any governmental matter ("Improper Payments"). For purposes of this Sale Order, the term "government official" shall mean and include any official or employee of national, local or provincial or state government department, agency, or instrumentality, as well as an official in the judicial, legislative, or military, anyone acting in an official capacity for any government, or any immediate family member of such persons. Any above-described Improper Payments by Buyer shall render this Sale Order null and void. Buyer shall promptly report to Seller any credible evidence of Improper Payment activity in connection with activities carried out under this Sale Order.
- (d) **Actions or Inactions by Seller.** In no event shall Seller be obligated under this Sale Order to take any action or omit to take any action that Seller reasonably believes would cause it to be in violation of any U.S. laws, including without limitation the U.S. Foreign Corrupt Practices Act.

**\*\* END OF SALE ORDER GENERAL TERMS AND CONDITIONS \*\***