

Blue Cellar LLC
Terms and Conditions of Purchase

*These Terms and Conditions (the “**Terms**”) apply to all purchase orders, quotations, invoices, and related documents issued by Blue Cellar LLC (“**Seller**”). They govern the purchase of products and services by any customer (“**Buyer**”).*

1. Definitions. As used in these Terms: (a) “**Order**” means these Terms and the purchase order, quotation, invoice, or similar document to which they relate; and (b) “**Goods**” means those products, materials, supplies, drawings, data, or other property or services described in the Order.

2. Acceptance. An Order becomes binding only when it has been signed or fulfilled by Seller. Seller’s acceptance of an Order from Buyer is expressly limited to the Terms of the Order and conditioned on Buyer’s acceptance of these Terms as binding on Buyer and the Order. Any document from Buyer that contains additional or conflicting terms is hereby rejected. Acceptance of a signed Order and/or shipment of any Goods covered by this Order constitutes acceptance of these Terms by Buyer.

3. Prices & Payment. All prices are subject to change by Seller until an Order is signed by both parties. All prices are F.O.B. Seller’s facility and exclude sales taxes, excise taxes, duties, tariffs, and shipping costs. Payment is due 30 days from the invoice date unless otherwise specified in the Order. Late payments accrue interest at 1.5% per month or the maximum legal rate.

4. Scope of Work. If services are included in the Order, Seller will only perform the specific services described. Any services or work not expressly stated in the Order are excluded. Buyer shall be solely responsible for ensuring that the service location is accessible, safe, and properly equipped (including adequate power, ventilation, etc.). Seller reserves the right to suspend or delay the provision of services if these conditions are not met. Buyer makes no representation or warranty regarding such services and disclaims all warranties as set forth below, except that Seller warrants that services described in an Order, performed by Seller, and paid for by Buyer shall be performed in a good and workmanlike manner for a period of 90 days from the performance of such services.

5. Delivery & Risk of Loss. Seller will use commercially reasonable efforts to meet all delivery dates stated in the Order; however, Buyer understands that delivery dates are estimates only, and Seller does not guarantee delivery by any date. All goods are F.O.B. Seller’s facility, and Buyer shall be solely responsible for insuring Goods during shipping and shall be responsible to pay for all Goods regardless of any loss that may occur during shipping.

6. Change Orders. If Buyer requests a change to an Order, Seller, in its sole discretion, may attempt to accommodate the change or reject the change. Any change accepted by Seller may result in changes to pricing and other Order terms. No modification of any Order is binding unless signed by Buyer and Seller.

7. Returns & Cancellation. All Orders are final when signed by Buyer and Seller, and no returns or cancellations are permitted except with Seller’s written agreement. If Seller cannot fulfill an Order, it will use commercially reasonable efforts to notify Buyer as soon as possible and to refund any amounts paid by Buyer for any unshipped Goods.

8. Subcontractors & Assignment. Neither party may assign its rights, duties, or obligations related to an Order. However, Buyer understands and agrees that Seller may use subcontractors in the provision of services described in an Order.

9. Confidentiality & Intellectual Property. Buyer shall keep the details of this Order and pricing of all Goods confidential. Seller transfers no intellectual property rights to Buyer. Buyer shall not copy, reverse-engineer, or reproduce any Goods.

10. Warranties. EXCEPT AS EXPLICITLY SET FORTH HEREIN, SELLER MAKES NO REPRESENTATIONS AND DOES NOT OFFER ANY WARRANTIES ON ANY GOODS, EITHER EXPRESS OR IMPLIED, AND HEREBY DISCLAIMS ALL WARRANTIES INCLUDING THE WARRANTY OF MERCHANTABILITY AND WARRANTY OF FITNESS

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FOR A PARTICULAR PURPOSE. Notwithstanding the foregoing, Buyer may be entitled to certain manufacturer's warranties on physical Goods to the extent that they exist and are transferable to Buyer.

11. Force Majeure. Neither party shall be liable to the other for delays in delivery or provision of Goods or failure to manufacture or accept Goods due to acts of God, acts of civil or military authorities, governmental actions, fires, strikes, floods, epidemics, war, riot, terrorist acts, or threats of terrorist acts or riot, or similar events outside the control of the parties and provided that the cause for the delay is reported in writing to the other party within seven (7) days. Notwithstanding the foregoing, no such force majeure event shall excuse the failure of Buyer to pay any sums due to Seller as and when due.

12. Indemnity. Except to the extent of Seller's negligence or willful misconduct, Buyer shall defend, indemnify and hold harmless Seller and its owners, agents, employees, and representatives, and their respective successors and assigns from and against any loss, cost, damage or expense (including reasonable attorney's fees) arising from any act, omission, use, or nonuse of the Goods or related to the Goods by Buyer or anyone acting on Buyer's behalf or under Buyer's direction or control. The provisions of this Section shall survive the expiration or termination of this Order.

13. Nonwaiver. The failure of Seller to insist upon strict performance of any Terms or failure or delay to exercise any rights or remedies or to properly notify Buyer in the event of breach, or the acceptance of payment or partial payment for any Goods, shall not release Buyer of any of the obligations of this Terms and shall not be deemed a waiver of any right of Seller.

14. Compliance with Laws. In the performance of work hereunder, Buyer and Seller shall comply with all applicable federal, state and local laws and rules and regulations of any governmental authority, including without limitation all export and re-export requirements, laws and regulations applicable to the Goods.

15. Governing Law; Jurisdiction. These Terms and the Order shall be construed and governed by the laws of the Commonwealth of Pennsylvania and its commercial code, if applicable, without regard to its conflict of laws principles and excluding the U.N. Convention for the International Sale of Goods. All disputes arising hereunder shall be resolved in the state and federal courts located within Butler County, Pennsylvania, and Buyer hereby consents to the jurisdiction of such courts. Buyer waives any defenses based upon venue, inconvenience of forum, lack of personal jurisdiction, improper service of process, or other similar defenses or objections in any such action.

16. Severability & Integration. Any provision of the Order that is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining portions or affecting the validity or enforceability of such provision in any other jurisdiction. These Terms, together with any applicable Order, constitute the entire agreement between Seller and Buyer with respect to such Order and supersede and replace any prior communications regarding the Goods. No modification of any Order shall be binding unless signed by Buyer and Seller. Buyer reserves the right to change or modify these Terms from time to time.

17. Exclusive Remedy. **BUYER'S SOLE REMEDY FOR ANY LIABILITY OF SELLER RELATED TO THE ORDER AND/OR THE GOODS SHALL BE LIMITED TO, IN SELLER'S SOLE DISCRETION, EITHER (i) REPLACEMENT GOODS OR RE-PERFORMANCE OF SERVICES, or (ii) REFUND OF THE AMOUNT PAID BY BUYER PURSUANT TO THE ORDER.**

18. Limitation of Liability. **NEITHER BUYER NOR SELLER NOR THEIR RESPECTIVE OWNERS, PRINCIPALS, AGENTS OR REPRESENTATIVES SHALL HAVE ANY LIABILITY FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THESE TERMS, THE ORDER, OR THE GOODS. SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO AN ORDER SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID BY BUYER TO SELLER PURSUANT TO SUCH ORDER.**