

SMARTVISTA, LLC TERMS OF SALE

The goods (hereinafter the "Products") offered by SmartVista, LLC, its parent companies, subsidiaries, groups, divisions, related entities, and authorized distributors ("Seller") are offered for sale at prices indicated in the offer, or as may be established by Seller. The offer to sell the Products and acceptance of Seller's offer by any buyer ("Buyer") is contingent upon, and will be governed by all of the terms and conditions contained in this Terms of Sale or any more current version of same. Seller objects to any contrary or additional terms or conditions of Buyer's order or any other document or other communication issued by Buyer. Buyer's order for any Products specified in Buyer's purchase document or Seller's offer, proposal or quote ("Quote") attached to the purchase order, when communicated to Seller verbally, or in writing, shall constitute acceptance of this offer. This Terms of Sale is effective upon the earliest of: (i) Buyer's acceptance of a Quote to Seller, or (ii) Buyer's acceptance of these terms.

1. **Price.** Prices stated on Seller's Quote are valid for 30 days, except as explicitly otherwise stated therein, and do not include any sales, use, other taxes or duties, or governmental fees unless specifically stated. Seller reserves the right to modify prices to adjust for any raw material price fluctuations. Buyer shall also pay all freight, insurance, and taxes (including but not limited to import or export duties, sales, use, value add, and excise taxes). If Buyer is required by law to make a withholding or deduction from payment, Buyer will make payments to Seller net of the required withholding or deduction. Buyer will supply to Seller satisfactory evidence (e.g. official withholding tax receipts) that Buyer has accounted to the relevant authority for the sum withheld or deducted.

2. **Payment.** Invoices are due and payable within the time period stated on Seller's invoice to Buyer, or if not stated, within 30 days from the invoice date. Payment must be made in the method and currency identified by Seller. Credit approval may be revoked at any time. Seller may invoice parts of an order separately or together in one invoice. All invoices shall be deemed accurate unless Buyer advises Seller in writing of a material error within 10 days following receipt. If Buyer advises Seller of a material error, any amounts corrected by Seller in writing shall be paid within 14 days of correction and all other amounts shall be paid by Buyer by the due date. If Buyer withholds payment upon an assertion that an invoiced amount is erroneous, and Seller concludes that such amount is accurate, Buyer shall pay interest as described below from the due date for such amounts until Seller's receipt of those amounts. Buyer may not offset, defer or deduct any invoiced amounts that Seller determines are not erroneous following the notification process set forth above. Seller may charge a late penalty of 1.5% per month on undisputed overdue amounts, or the maximum rate permitted by law, whichever is less. Late penalties will be recalculated every 30 days based on current outstanding balance. Seller,

without waiving any other rights or remedies and without liability to Buyer, may refuse additional orders for Products until all overdue amounts are paid in full. Seller shall be entitled to all reasonable legal and attorney fees and associated costs of collecting overdue amounts.

3. **Shipment; Delivery; Title and Risk of Loss.** Unless otherwise specified by Seller, all prices are EXW Seller's facility (Incoterms 2010). Regardless of the manner of shipment, delivery occurs and title and risk of loss or damage pass to Buyer, upon placement of the Products with the shipment carrier at Seller's facility. Buyer shall be responsible for any additional shipping charges incurred by Seller due to Buyer's acts or omissions. All delivery dates are approximate. Seller is not responsible for damages resulting from any delay.

4. **Changed or Discontinued Products.** Seller may change Product features, specifications, or designs or discontinue Products at any time, including after Buyer places an order, but prior to Seller's shipment or performance. As a result, Products received might differ from those ordered. However, Products will materially meet or exceed all published specifications for the Products.

5. **Canceled or Changed Orders.** Buyer may not cancel or modify or cancel any order for any reason, except with Seller's written consent and upon terms that will indemnify, defend and hold Seller harmless against all direct, incidental and consequential loss or damage.

6. **Returns and Exchanges.** The Parties agree Buyer may return Products within a 7-day period, after which Products will not be accepted for return, refund, or exchange. Within this 7-day period, before returning or exchanging Products, Buyer must contact Seller to obtain an authorization number for Buyer's return. Buyer must return Products in its original or equivalent packaging, and Buyer is responsible for risk of loss and shipping and handling fees. Additional fees, including

up to a 15% restocking fee, may apply. If Buyer fails to follow the return or exchange instructions, Seller will not be responsible for any loss, damage, or modification of Products. Credit for partial returns may be less than invoice or individual component prices due to bundled or promotional pricing associated with Buyer's purchase. Title to returned or exchanged Products shall pass to Seller upon receipt at the specified Seller facility.

7. Claims; Commencement of Actions. Buyer shall inspect all Products upon receipt. No claims for shortages will be allowed unless reported to the Seller within 10 days of delivery. Buyer shall notify Seller of any alleged breach of warranty within 30 days after the date the defect is or should have been discovered by Buyer. Any claim or action against Seller based upon breach of contract or any other theory, including tort, negligence, or otherwise must be commenced within 12 months from the date of the alleged breach or other alleged event, without regard to the date of discovery. No other claims against Seller will be allowed unless asserted in writing within 30 days after delivery.

8. Buyer Responsibility. Buyer is solely responsible for making the final selection of the Products and ensuring that such Products are suitable and sufficient for all applications and reasonably foreseeable uses of the Products. If Seller provides Products based upon specifications provided by Buyer, Buyer is responsible for determining that such specifications are suitable and sufficient for all applications and reasonably foreseeable uses of the Products.

9. Limitation Against Resale or Export. Products sold to Buyer may not be resold or exported, except as agreed to by Seller in writing. Buyer's purchase may not be sold, leased, or transferred to restricted countries, restricted end users, or for restricted end uses according to U.S. export and sanctions laws.

10. Force Majeure. Seller does not assume the risk and is not liable for delay or failure to perform any of Seller's obligations by reason of events or circumstances beyond its reasonable control, which shall include, without limitation: accidents, strikes or labor disputes, acts of any government or government agency, acts of nature, delays or failures in delivery from carriers or suppliers, shortages of materials, or any other cause beyond Seller's reasonable control.

11. Waiver. Failure to enforce any provision of this Terms of Sale will not invalidate that provision; nor will any such failure prejudice Seller's right to enforce that provision in the future.

12. Termination. Seller may terminate this Terms of Sale for any reason and at any time by giving Buyer 30 days' prior written notice. Seller may immediately terminate this Terms of Sale, in writing, if Buyer: (i) breaches any provision of this Terms of Sale (ii) appoints a trustee, receiver or custodian for all or any part of Buyer's property (iii) files a petition for relief in bankruptcy on its own behalf, or one if filed by a third party (iv) makes an assignment for the benefit of creditors; or (v) dissolves its business or liquidates all or a majority of its assets.

13. Confidentiality. "Confidential Information" means information that is designated as confidential or should reasonably be understood to be confidential. Confidential Information may only be disclosed to the receiving party's personnel, advisors, agents, and subcontractors ("Representatives"), on a "need-to-know" basis in connection with this Terms of Sale. Representatives shall be bound to treat Confidential Information under terms at least as restrictive as those herein, and the receiving party shall be liable for unauthorized disclosures by its Representatives. Each party will use at least the same degree of care as it employs with respect to its own Confidential Information, but not less than a commercially reasonable standard of care. The foregoing shall not apply to information that (i) is independently developed without use of the other party's Confidential Information; (ii) has been obtained from a source which is not under a confidentiality obligation; or (iii) is or becomes publicly available without fault of the receiving party. If receiving party must disclose Confidential Information as required by law, it shall give reasonable prior notice to the disclosing party. These obligations shall continue for 3 years from the initial date of disclosure, except that obligations related to information about a party's intellectual property shall never expire.

14. Notices. Notice to Seller under this Terms of Sale must be in writing and sent by registered or certified mail (postage prepaid first-class mail and return receipt requested) or by overnight delivery service to the address below, and will be effective upon receipt.

SMARTVISTA, LLC
2153 E Main St., C14 #1
Duncan, SC 29334

15. Proprietary Rights. The Products may be protected pursuant to trade mark laws, copyright laws, and international copyright treaties, as well as other intellectual property laws and treaties. All right, title, and interest in the intellectual property (including all copyrights, patents, trademarks, trade secrets, and trade dress) embodied in the

Products shall belong solely and exclusively to Seller or its licensors.

16. **Indemnification.** The parties' indemnification obligations under this section are conditioned upon the indemnified party: (i) promptly notifying the indemnifying party of any claim in writing; (ii) cooperating with the indemnifying party in the defense of the claim; and (iii) granting the indemnifying party sole control of the defense or settlement of the claim. Buyer and Seller shall defend and indemnify each other against any third-party claim for injury or death to persons or damage to property where the injury has been exclusively caused by the indemnifying party's negligence, gross negligence, or willful misconduct in connection with any sale of Products subject to this Terms of Sale.

Buyer: Buyer will indemnify, defend, and hold harmless Seller from any losses, claims, liabilities, damages, lawsuits, judgments and costs (including attorney fees and defense costs), arising from: (i) Seller's compliance with Buyer or third-party designs, specifications, instructions, or technical information; (ii) modifications made by any party other than Seller; (iii) Buyer's non-compliance with applicable documentation; (iv) use of the Products for purposes not contemplated by these Terms of Sale or applicable documentation (including distribution to third parties, unless otherwise agreed to by the parties in writing); (v) Buyer's misuse of the Products; (vi) Buyer's violation of Seller's intellectual property rights; (vii) Buyer's violation of any export license or any allegation made against Seller due to Buyer's alleged violation of applicable export laws; or (viii) Buyer's use or combination of the Products with products that are not provided by Seller. **Seller:** Seller will indemnify, defend, and hold harmless Buyer from any losses, claims, liabilities, damages, lawsuits, judgments and costs (including attorney fees and defense costs), arising out of claims alleging (i) the Products provided under these Terms of Sale infringe intellectual property rights of third parties; (ii) any claim that the Products or their manufacture, sale, or labeling fails to comply with any governmental requirement, or the labeling of any Products or related packaging (including any instructions or warnings thereon), is inadequate in any manner; or (iii) any claim the Products should have been recalled pursuant to any governmental requirement. In addition, if Seller receives prompt notice of a Claim that Seller believes is likely to result in an adverse ruling, then Seller shall at its option: (i) obtain a right for Buyer to continue using such Products; (ii) modify such Products to make them non-infringing; (iii) replace such Products with a non-infringing equivalent; or

(iv) provide a reasonable depreciated or pro rata refund for the allegedly infringing Product.

17. **Compliance with Laws.** In performing its obligations under this Terms of Sale, each party agrees to comply with all laws, regulations, and industry and professional standards of care applicable to such party, including the customs and export control laws and regulations. Buyer represents and warrants that it is not the subject or target of, and that Buyer is not located in a country or territory that is the subject or target of, economic sanctions of the United States and other applicable jurisdictions.

18. **"AS IS" DISCLAIMER OF WARRANTIES.** SELLER AND BUYER AGREE THAT, TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, BUYER IS TAKING THE PRODUCTS "AS IS" WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY: (i) OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, SUITABILITY, OR NON-INFRINGEMENT; (ii) FOR ANY THIRD-PARTY PRODUCTS; OR (iii) FOR THE PERFORMANCE OF, OR RESULTS TO BE OBTAINED FROM, ANY PRODUCTS. FURTHER, THE PARTIES AGREE THERE IS NO WARRANTY FOR DAMAGE DUE TO EXTERNAL CAUSES SUCH AS ACCIDENT, ABUSE, MISUSE, NORMAL WEAR AND TEAR, OR USE OF PARTS AND COMPONENTS NOT SUPPLIED OR INTENDED FOR USE WITH THE PRODUCTS.

19. **LIMITATION OF LIABILITY.** IN THE EVENT OF A BREACH OF WARRANTY, SELLER WILL, AT ITS OPTION, REPAIR OR REPLACE A DEFECTIVE PRODUCT, OR REFUND THE PURCHASE PRICE WITHIN A REASONABLE PERIOD OF TIME. IN NO EVENT IS SELLER LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL, OR PUNITIVE DAMAGES ARISING OUT OF, OR AS THE RESULT OF, THE SALE, DELIVERY, NON-DELIVERY, SERVICING, USE OR LOSS OF USE OF THE PRODUCTS OR ANY PART THEREOF, OR FOR ANY CHARGES OR EXPENSES OF ANY NATURE INCURRED WITHOUT SELLER'S WRITTEN CONSENT, WHETHER BASED IN CONTRACT, TORT OR OTHER LEGAL THEORY. IN NO EVENT SHALL SELLER'S LIABILITY UNDER ANY CLAIM MADE BY BUYER EXCEED THE PURCHASE PRICE OF THE PRODUCTS. SOME JURISDICTIONS MAY NOT ENFORCE ALL OF THESE LIMITATIONS, AND ONLY THE LIMITATIONS THAT ARE LAWFULLY APPLIED

TO BUYER IN ITS JURISDICTION WILL APPLY. THESE LIMITATIONS, EXCLUSIONS, AND DISCLAIMERS APPLY TO ALL CLAIMS FOR DAMAGES, WHETHER BASED IN CONTRACT, WARRANTY, STRICT LIABILITY, NEGLIGENCE, TORT, OR OTHERWISE. THESE LIMITATIONS OF LIABILITY ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR SELLER'S SALE OF PRODUCTS TO BUYER, AND WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LIABILITIES.

20. **No Class Actions.** NEITHER PARTY SHALL BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS BY OR AGAINST EACH OTHER, OR PURSUE ANY CLAIM AS A REPRESENTATIVE OR CLASS ACTION OR IN A PRIVATE ATTORNEY GENERAL CAPACITY INVOLVING EACH OTHER.

21. **Dispute Resolution and Binding Arbitration.** **BUYER AND SELLER AGREE TO GIVE UP ANY RIGHTS TO LITIGATE CLAIMS IN A COURT OR BEFORE A JURY WITH RESPECT TO A CLAIM. ANY CLAIM, DISPUTE OR CONTROVERSY** (WHETHER IN CONTRACT, TORT OR OTHERWISE, WHETHER PRE-EXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, CONSUMER PROTECTION, COMMON LAW, INTENTIONAL TORT, INJUNCTIVE AND EQUITABLE CLAIMS) BETWEEN BUYER AND SELLER arising from or relating in any way to Seller's purchase of Products, this Terms of Sale, its interpretation or the breach, termination or validity thereof, the relationships which result from this Terms of Sale and any related transaction (including relationships with third parties who are not bound by this Terms of Sale) **SHALL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION.** The arbitrator shall have exclusive authority to resolve any dispute relating to arbitrability and/or enforceability of this arbitration provision including any unconscionability challenge or any other challenge that the arbitration provision or this Terms of Sale is void, voidable or otherwise invalid. The arbitration shall be administered by the American Arbitration Association ("AAA") (or a substitute forum as necessary) or as agreed to by the parties. The arbitrator shall be empowered to grant whatever relief would be available in a court of law or equity. This Terms of Sale and any transaction for Products between Buyer and Seller shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16

("FAA"). The parties agree that any such arbitration shall be brought and held exclusively in the state or federal courts located in Spartanburg County, South Carolina. Any award of the arbitrator(s) shall be final and binding on each of the parties, and may be entered as a judgment in any court of competent jurisdiction. The arbitrator may award reasonable fees to the prevailing party under the standards for fee shifting provided by law.

22. **Limitation on Assignment.** Buyer may not assign its rights or obligations under this Terms of Sale without the prior written consent of Seller.

23. **Governing Law.** The parties agree that this Terms of Sale, the sale and delivery of any Product thereunder, or any claim, dispute or controversy (whether in contract, tort or otherwise, including statutory, consumer protection, common law, intentional tort and equitable claims) between Buyer and Seller arising from or relating to this Agreement, its interpretation or the breach, termination or validity thereof, the relationships which result from this Agreement, Seller's advertising, or any related purchase shall be governed and construed by the laws of the State of South Carolina, without regard to conflicts of laws principles.

24. **Entire Agreement.** This Terms of Sale contains the entire agreement between Buyer and Seller and constitutes the final, complete and exclusive expression of the terms of sale. All prior or contemporaneous written or oral agreements or negotiations with respect to the subject matter are herein merged. The terms contained herein may not be modified unless in writing and signed by an authorized representative of Seller.

25. **Severability.** If any provision of this Terms of Sale is found to be void or unenforceable, such provision will be stricken or modified, but only to the extent necessary to comply with the law, and the remainder of this Terms of Sale will remain in full force. No rights may arise by implication or estoppel, other than those expressly granted herein.