

U.S. TERMS AND CONDITIONS OF SALE

1. **SCOPE.** These Terms and Conditions of Sale (“Terms and Conditions”) apply to the sale of Armstrong Flooring products (the “Products”) by Gordon Brothers Commercial & Industrial LLC and its subsidiaries (“Seller”) to buyer (“Buyer”). Except as otherwise agreed to in writing by Seller, these Terms and Conditions, as well as the terms and conditions printed on the face of Seller’s order acknowledgement, constitute the sole and entire agreement between Buyer and Seller with respect to the subject matter hereof (“Agreement”). Any term or condition included by Buyer which is inconsistent with, or in addition to, this Agreement is expressly rejected and Seller’s acceptance of an order from Buyer is expressly conditioned upon Buyer’s acceptance of this Agreement. This Agreement shall govern, control, and apply to all Products ordered by Buyer from Seller via purchase orders, delivery tickets, invoices or other written agreements between the Seller and Buyer. This Agreement does not obligate Buyer to order Products from Seller, nor does it obligate Seller to accept orders from Buyer. Seller’s failure to object to any term or condition in any oral or written communication from Buyer shall not constitute acceptance of, or waiver of, any term or condition of this Agreement. Electronic commercial transactions between Buyer and Seller shall also be governed by this Agreement, and any terms and conditions on Buyer’s internet site shall be null and void and of no effect on Seller.
2. **DELIVERY.**
 - (a) Shipping and delivery dates are approximate and are given by Seller in good faith, but are not guaranteed, unless otherwise specifically agreed in writing by Seller. Buyer may reschedule an order with Seller’s written consent; provided, Seller reserves the right to cancel rescheduled orders. Buyer shall be responsible for all storage and other costs relating to Buyer’s failure to accept delivery (when Products are ready to ship). Orders placed in shipment, orders for non-stocked items, made-to-order items, or custom-color items cannot be canceled or changed by Buyer.
 - (b) Unless otherwise expressly agreed in writing by Seller and Buyer, delivery will be made FCA Seller’s plant or storage facility, as applicable. All risk of loss shall pass to Buyer upon delivery of the Products by Seller to Buyer’s carrier at the point of origin. Seller reserves the right to ship collect, unless otherwise agreed to in writing, and will select the method and agency of transportation. If Seller delivers Products to an agent of Buyer within the United States, Buyer acknowledges and agrees that title to such Products shall transfer to Buyer at the time of such delivery, whether or not Buyer has actually been invoiced for such Products.
 - (c) The weight or quantity stated on Seller’s carrier’s receipt shall be conclusive evidence of the amount delivered, except in cases of manifest error.
 - (d) Each delivery shall be treated as a separate contract and partial deliveries are permitted. Failure to make any particular delivery, or any breach of contract by Seller relating thereto, shall not affect any remaining deliveries.
 - (e) Buyer shall promptly supply all information and assistance required for Seller to execute Buyer’s order.
3. **ACCEPTANCE AND RETURNS.**
 - (a) Buyer shall promptly inspect all Products received under this Agreement. Unless Buyer notifies Seller in writing within thirty (30) days after receipt of Products, Buyer shall be deemed to have accepted Products.
 - (b) All sales are final and no refund or credit will be offered for returned Product(s). Any attempted returns are subject to refusal by Seller and may be returned to Buyer freight collect.
4. **PRICE; PAYMENT.**
 - (a) Except where it is specified that a price stated is “firm”, all prices are subject to change and orders will be invoiced at Seller’s prices prevailing at the time of shipment. Sheet cuts will incur a cut upcharge. All accounts are payable in U.S. funds, free of exchange, collection, or other charges. In cases where the price for Products includes delivery costs, Buyer agrees to pay Seller the amount of any increases on Buyer’s account, whether for rates, shipping modes, conditions, or delay in unloading shipments.
 - (b) All applicable sales or use taxes, excises, or any other taxes or charges (except net income and equity franchise taxes) imposed now or in the future by any federal, state, foreign or local authority upon productions, sale or transportation of the Products shall be paid for by Buyer. Buyer shall reimburse Seller for any such taxes, excises or charges which Seller may be required to pay in addition to the price payable by Buyer for the Products. Buyer may, at its option and where legally permissible, elect to file a proper exemption certificate with Seller and Buyer shall be fully responsible for paying taxes directly to the taxing authority.
 - (c) This Agreement and all shipments of Product shall, at all times, be subject to the approval by Seller of Buyer’s financial condition. If the financial condition of Buyer at any time becomes unsatisfactory to Seller, in Seller’s sole discretion, or if Buyer fails to make payment when payment is due, in addition to any rights Seller may have, Seller may defer or decline to make any shipment(s) or may condition shipment(s) upon receipt of satisfactory security or cash in advance.
 - (d) Time of payment is of the essence. Payment terms are net thirty (30) days from date of invoice, unless otherwise agreed in writing by Seller. Seller reserves the right to charge an interest rate of one- and one-half percent (1½%) per month or the maximum percentage rate permitted by law, whichever is lower, on any amounts not paid in accordance with invoiced terms. Without limiting any other remedies under the law, Buyer shall reimburse Seller for all of Seller’s costs and expenses, including reasonable attorneys’ fees, incurred in connection with collecting overdue accounts.

(e) Buyer is not entitled to suspend or withhold payment of any sums (or parts thereof) due to Seller by reason of set off, counter claim or any other reason whatsoever. All amounts owing to Seller shall be paid in full on or before the applicable due date.

- 5. LIMITED MANUFACTURING WARRANTY.** For orders shipped after July 22, 2022 GBCI will offer a limited warranty program that will include a limited 12 month warranty against manufacturing defects to cover material cost only and is subject to Buyer providing original proof of purchase from GBCI and verification of any asserted warranty claim by GBCI's third-party vendor This limited warranty applies only to non-discounted, running line product. For the avoidance of doubt, no promotionally priced or discontinued products are covered by this limited warranty.

EXCEPT AS PROVIDED IN SELLER'S LIMITED MANUFACTURING WARRANTY FOR THE PRODUCTS PURCHASED, SELLER EXCLUDES AND DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE EXTENT PERMITTED BY LAW. SELLER EXCLUDES, WILL NOT BE LIABLE FOR, AND WILL NOT PAY, ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES. Seller's Limited Warranty shall not be construed as a "warranty" for purposes of the Magnuson-Moss Warranty Act. If Seller's Limited Warranty should be construed as a limited warranty for purposes of the Magnuson –Moss Warranty Act, then any implied warranty which might exist by operation of law shall be limited to thirty (30) calendar days from the date of original consumer purchase and such limited warranty shall run only to the original consumer purchaser.

- 6. FORCE MAJEURE.** Each party shall be excused from its performance under this Agreement and neither party shall be liable for its obligations under this Agreement, other than the payment of money, if caused by "Force Majeure," as defined below; provided that the party so affected promptly notifies the other of the existence of the Force Majeure, its expected duration and the anticipated effect of the Force Majeure on its ability to perform its obligations under this Agreement. As used in herein "Force Majeure" means any act of God, nature or the public enemy, accident, explosion, flood, drought, perils of the sea, strikes, lockouts, labor disputes, riots, sabotage, embargo, war (whether or not declared and whether or not the United States is a participant), federal, state or municipal legal restriction or limitation or compliance with such restriction/limitation, failure or delay of transportation, shortage of, or inability to obtain, raw materials, supplies, equipment, fuel, power, labor, or other operational necessity, interruption or curtailment of power supply, or any other circumstance, of a similar or different nature condition or contingency which is beyond the reasonable control of the party claiming Force Majeure. A party is not required to resolve labor disputes or disputes with suppliers of raw materials, supplies, equipment, fuel, or power, or seek alternate sources thereof except to the extent that the party considers this to be in its best interest. If a Force Majeure circumstance affects either party's performance for at least ninety (90) consecutive days, the party who is able to perform may terminate the applicable order to which these Terms and Conditions apply upon written notice to the affected party.

7. TERMINATION AND SUSPENSION.

(a) Seller may (without prejudice to its other rights or remedies) suspend performance, cancel shipments and/or refuse to sell to Buyer if any of the following occur:

- i) Buyer fails to take delivery of, or fails to pay for the Products as required by Seller, or otherwise breaches any material terms of this Agreement;
- ii) Buyer exceeds its credit limit with Seller or any of its associated companies, including, but not limited to, any distribution channel;
- iii) Buyer is overdue by more than thirty (30) days with any payments due and owing to Seller under this, or any other contract;
- iv) Buyer suspends payments to its creditors or in respect of its commercial obligations; Buyer makes an assignment for the benefit of its creditors, becomes bankrupt or insolvent or if a receiver takes possession of any material part of Buyer's assets, or Buyer suffers any foreign equivalent of the foregoing;
- v) Buyer ceases to do business and/or discontinues the business lines in which the Product(s) are utilized; or
- vi) Reasonable grounds for insecurity arise with respect to the performance by Buyer of its obligations to Seller hereunder, and Seller so notifies Buyer.

(b) If Buyer provides Seller with security for the Product price, reasonably acceptable to Seller, within three (3) working days after a notice has been given to Buyer under Section 7 (a)(iii) above, Seller shall withdraw the notice.

- 8. INTELLECTUAL PROPERTY.** Buyer agrees that Seller has rights, title, and/or interest in certain trademarks including ARMSTRONG trademarks among others ("Trademarks"). Seller agrees not to assert any trademark rights against Buyer, so long as Buyer agrees (1) Buyer will not seek trademark protection or registration for any trademarks similar to the Trademarks, (2) Buyer only uses these Trademarks in a manner consistent with sound trademark principles and AFI usage of the Trademarks, and (3) the provisions of this paragraph 8 end with the termination pursuant to paragraph 7.

- 9. INDEMNIFICATION.** Buyer will indemnify, defend and hold harmless Seller, its officers, directors, employees, agents and representatives from and against all losses, damages, liabilities, costs, and expenses from any third party claim for personal injury, death, or property damage (collectively, "Losses"), arising out of or caused, directly or indirectly, by Buyer's negligent actions or omissions (each a "Claim").

- 10. LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER

FOR ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOST PRODUCTION, LOST REVENUE, LOST PRODUCT, LOST PROFITS, OR LOST BUSINESS OR BUSINESS INTERRUPTIONS, FROM ANY CAUSE WHATSOEVER, INCLUDING BUT NOT LIMITED TO THE NEGLIGENCE OR BREACH OF DUTY, STATUTORY OR OTHERWISE, OF EITHER PARTY, AND EACH PARTY HEREBY RELEASES THE OTHER IN THIS REGARD. IN NO EVENT SHALL SELLER'S LIABILITY UNDER THIS AGREEMENT EXCEED THE PURCHASE PRICE FOR THE PRODUCTS FROM WHICH THE CLAIM ARISES.

11. MISCELLANEOUS.

- (a) Nothing in this Agreement shall obligate Seller to sell any Products to Buyer on any terms whatsoever, including cash in advance.
- (b) This Agreement, its performance, any interest herein or in any monies due or to become due herein, may not be assigned or subcontracted by Buyer without the prior written consent of Seller.
- (c) Buyer agrees to comply with all applicable laws, ordinances and regulations including but not limited to the Foreign Corrupt Practices Act, International Traffic in Arms Regulations, Export Administrations Act, and the Anti-boycott Regulations and Guidelines.
- (d) Buyer acknowledges that Products provided under this Agreement are subject to U.S. and other export laws and regulations. Buyer agrees not to export, re-export, transfer, or transmit the Products except in compliance with all such laws and regulations.
- (e) Waiver by either party of any default by the other party shall not be deemed a waiver of any other default. No provision of this Agreement may be deemed waived, amended, or modified by either party unless such waiver, amendment or modification is in writing and signed by authorized representatives of both parties.
- (f) This Agreement shall be governed by and construed in accordance with the substantive laws (other than the conflict of law provisions and principles) of the State of Delaware, including the Uniform Commercial Code as adopted in Delaware. The Parties expressly exclude application of the United Nations Convention on Contracts for the International Sale of Goods. Any litigation with respect to this Agreement shall be commenced only in the state court or federal court located in Delaware and each party hereby submits to the jurisdiction of the court in which such litigation is commenced.
- (g) This Agreement supersedes and cancels any previous agreements or understandings, whether oral, written, or implied, between Buyer and Seller and sets forth the entire Agreement with respect to the subject matter hereof. If any part of this Agreement, or the application thereof to any person or circumstance shall to any extent be held invalid or unenforceable, the remainder of the Agreement shall not be affected thereby and shall be valid and be enforceable to the fullest extent permitted by law.
- (h) The parties warrant having been duly authorized to represent each of their affiliated legal entities and to express on their behalf their full and complete consent to every term of this Agreement as well as their full commitment to properly fulfill every obligation described hereunder. The parties unconditionally and irrevocably guarantee the full performance and fulfillment of the terms and conditions of this Agreement by each of their affiliated legal entities.