



ENCORE PRECAST, LLC STANDARD TERMS & CONDITIONS:

Effective Date: May 15, 2025

1. **AGREEMENT AND ACCEPTANCE.** These Standard Terms and Conditions (these "**Terms**") are made part of the quotation (the "**Quotation**"), and any subsequent written agreement, between the buyer set forth in the Quotation (the "**Buyer**") and Encore Precast, LLC, an Ohio limited liability company ("**Encore**"). The Quotation is valid for 30 days from the date set forth in the Quotation. The total price set forth in the Quotation (the "**Contract Price**") is specifically based on the quantities quoted, and the fair market price of materials, equipment, and supplies (collectively, "**Material**") required for the products quoted in the Quotation (the "**Product**" or "**Products**") as of the date of the Quotation. Encore reserves the right to make a good-faith adjustment to the Contract Price if the quantities or size of the Products differ, or if fair market cost of the Material increases more than five percent, or otherwise as set forth below. Pricing generally remains valid for 180 days from order confirmation. For orders that have not shipped or transferred ownership to the Buyer after 180 days, Encore reserves the right to implement a one and a half percent quarterly price escalation fee. Upon the Buyer's acceptance, this Quotation, including these Terms and the Plans (defined in Section 2), will constitute Encore's entire agreement with the Buyer (the "**Contract**") for the Buyer's project (the "**Project**"). Either the Buyer's signature below, or any written/electronic notification to Encore of acceptance, or Encore's commencement of production of the Product after the date of the Quotation, will constitute the Buyer's acceptance of the Quotation. These Terms prevail over any of the Buyer's general terms and conditions of purchase regardless of whether or when the Buyer has submitted its purchase order or such terms. Fulfillment of the Buyer's order does not constitute acceptance of any of the Buyer's terms and conditions and does not serve to modify or amend these Terms. Encore hereby rejects any terms and conditions proposed by the Buyer in their entirety. These Terms may be attached to any Quotation or any subsequent written agreement between the Buyer and Encore or they may be incorporated by reference into any such Quotation or subsequent written agreement with reference to the location of these Terms on Encore's website at <https://encoreprecastllc.com/>, and Encore may modify and update the online form of the Terms from time to time with or without notice to the Buyer and it is the Buyer's responsibility to review the online form of the Terms on a periodic basis.
2. **SCOPE AND CHANGES.** In exchange for payment of the Contract Price, Encore will complete and furnish the Products as outlined in the Quotation in accordance with the Buyer's approval of Encore's shop drawings and/or Encore's standard designs. Encore does not guarantee the accuracy of shop drawings, standard designs, or information incorporated into shop drawings or standard designs, or that such are harmonious or compatible with any plans related to the Project. The Buyer shall sign all shop drawings and standard designs prior to manufacturing, and such signature shall constitute a representation and warranty that the shop drawings and standard designs are sufficient for the Project. Upon the Buyer's approval of any shop drawings or standard designs, as applicable, or a request to proceed without approval, Encore is released from all responsibility for shop drawing and standard design errors and/or manufacturing corrections. The Buyer is responsible for all expenses caused by shop drawing or standard design inaccuracy including, but not limited to, Product replacement. Approval of shop drawings and standard designs conveys acceptance of the terms, conditions and responsibilities noted herein. Any changes to the Product set forth above, or the Buyer's Project design, plans or specifications approved by Encore (collectively, the "**Plans**"), must be requested by means of a written and signed change order detailing the changed Product and Plans, and properly adjusting the Contract Price (and time for completion and/or delivery of the Product, if necessary). No change will be effective until accepted in writing by Encore. Changes may result in additional changes for time and cost. Coatings and sealants, unless specifically called for in the Quotation, are not included.
3. **DELIVERY.** The Project site must be accessible by Encore's standard delivery vehicles under their own power. If the Product is to be delivered and offloaded by Encore, acceptability of the Project site will be determined by the boom operator, in his/her discretion. Freight charges quoted are based on full truckload quantities. Short loads will be subject to additional charges to cover the cost of delivery. Deliveries canceled with less than 24 hours' notice are subject to full delivery charge. Delivery includes one hour for offloading. Additional time in excess of one hour will be invoiced at an hourly rate. A restocking fee of 25% may be charged on undamaged, non-custom Products. Freight charges for returned Products on Encore equipment will also be applicable. Custom Products are not returnable. All returns must be approved by Encore. Returns will not be accepted after 90 days from date of delivery to the Project site.
4. **PAYMENT.** The Buyer agrees to pay all invoices within 30 days of issuance. The Buyer agrees that payments will not under any circumstances be conditioned on the happening of any other events, including without limitation, any third-party funding or payment to the Buyer by any third party relating to the Product. Any amounts not paid when due shall be subject to interest at one and a half percent of the delinquent balance per month, which the Buyer agrees is a reasonable rate of interest. The Buyer agrees to be responsible for all of Encore's costs related to the collection of unpaid balances due to Encore under this Contract, including Encore's reasonable attorney fees, court costs, and any other expenses.
5. **COMPLETION, IMPACTS, AND ADJUSTMENTS.** Encore agrees that it will timely commence production per the Quotation, based on mutually agreed upon schedule, and proceed with reasonable diligence, and that the Product shall be timely fabricated

and completed as specified and in a professional manner, subject to the Buyer's performance, and modification of the Product scope and specification. Encore shall not be responsible for delay or impact to the completion or delivery of the Product caused by the acts or omissions of the Buyer or any third parties outside of Encore's control, or by adverse weather conditions, acts of God, pandemic or epidemic, acts of any governmental entity, damage by fire or other casualty, unavailability or price increases of materials, strike, walkout, labor shortage or unforeseen cost of labor increases, or by any events or conditions over which Encore does not have complete control. In any such event, the time for completion and delivery of the Product shall be extended for a reasonable period of time lost by any of such delays and the Price shall be equitably adjusted. Notwithstanding anything herein to the contrary, and to the fullest extent permitted by law, Encore shall have no liability to the Buyer for delay damages. In the event applicable law prohibits or restricts waivers for delay damages, and subject to the remaining terms of this Section, where a delay is the result of more than one proximate cause, and one of the proximate causes results from Encore's actions or inactions, the Buyer must first seek recovery from each person or entity that is also a proximate cause of any delay. The Buyer must offset the amount awarded from other proximate causers against any proven damages that may be owed by Encore. Under no circumstance, however, will the Buyer be entitled to damages from Encore in excess of Encore's proportionate share, based on its percentage of fault, of the Buyer's proven damages for the period of any delay in an amount determined in Encore's reasonable discretion, subject to the Buyer's duty to mitigate its damages and to provide adequate documentation of its damages, and subject to the remaining terms of this Contract.

6. INDEMNIFICATION. To the fullest extent permitted by law, the Buyer shall indemnify, defend, and hold Encore harmless from all claims, demands, liabilities, causes of action, losses, delays, impacts, associated costs and expenses (including reasonable attorney fees and court costs) arising out of or relating to this Contract or the Product, which are not solely the result of Encore negligence or willful misconduct.
7. LIMITED WARRANTY. The Product shall be produced and delivered in a good and workmanlike manner, according to prevailing industry standards, but in any event in compliance with the Plans. Any claim by the Buyer that the Product was not so produced and/or delivered shall be served on Encore within one year from delivery of the Product, or will be deemed waived. EXCEPT FOR THE EXPRESS WARRANTY IN THIS SECTION, ENCORE MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES, AND EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NONINFRINGEMENT, OR OTHERWISE.
8. LIMITATION OF LIABILITY. The Buyer agrees that Encore's total liability arising out of or relating to this Contract and/or the Product shall be limited to the Contract Price, regardless of the theory or nature of the claim. In no event shall Encore be liable for any indirect, special, liquidated, punitive, exemplary or consequential damages claimed by Buyer to result from an alleged breach by, or acts or omissions of, Encore.
9. EXCLUSIVE REMEDY. For any loss or damage arising out of supplying Product to the Buyer, or the sale, operation, or use of the Product—whether such claim is based in contract, warranty, tort (including negligence) or other grounds—THE BUYER'S EXCLUSIVE REMEDY IS LIMITED, at Encore's sole discretion, to either: (a) refund by Encore of the portion of the Contract Price for any non-conforming Product; or (b) the repair of non-conforming Product or replacement of any non-conforming Product with new Product in its unfinished state. UNDER THIS EXCLUSIVE REMEDY, THE BUYER SHALL NOT RECOVER ANY OTHER COSTS OR DAMAGES FROM ENCORE, including, but not limited to, costs or damages for: return of non-conforming Product; delivery of replacement Product; removal of non-conforming Product; reinstallation of replacement Product (or products purchased to replace any non-conforming Product); damages, including, without limitation, those for delay; and/or any labor charges incurred related to the Product. NO OTHER REMEDY SHALL BE AVAILABLE TO THE BUYER. ANY CLAIM FOR INCIDENTAL AND/OR CONSEQUENTIAL DAMAGES for lost profits, lost sales, injury to property, or any other incidental or consequential loss IS THEREFORE BARRED PURSUANT TO THE TERMS OF THIS EXCLUSIVE REMEDY. Encore will not be liable for any failure of Product to conform to the Exclusive Limited Warranty above caused by installation or maintenance of the Product, or use of other products/materials in conjunction with the Product that negatively impacts the Product or otherwise do not conform with industry standards.
10. INSURANCE. The Buyer shall maintain its own insurance coverages appropriate for the Project at the appropriate limits given the Project's size and scope, which shall include Encore as an additional insured under such liability polic(ies). The Buyer shall provide Encore with a copy of its certificate of insurance within five days of Encore's request. The Buyer's insurance shall include, at minimum, Commercial General Liability, Automobile, All-Risk Property, Worker's Compensation, and Employer's Liability coverages in commercially reasonable amounts.
11. FUTURE ORDERS. The Buyer agrees that these Terms shall apply to any and all future sales and/or projects performed by Encore for the Buyer, unless the Buyer and Encore execute a separate written agreement for such projects or engagements.
12. SPECIAL PRODUCTS AND FEES. If Special Product(s) cannot be accepted within 60 days of production, a storage fee of 10% of the sale price of the Special Product(s) will be billed monthly unless otherwise agreed upon in writing. All Special Products ordered as part of a cash sale must be fully paid prior to production. A disposal fee of \$200/ton will be charged for all Special Products on hand over 90 days from the mutually agreed upon delivery date.
13. DEFAULT. If the Buyer (a) fails to make a payment when due, (b) becomes insolvent, (c) undergoes a change in ownership, (d) files a voluntary bankruptcy proceeding, or has an involuntary bankruptcy petition filed against it without obtaining a discharge

of that petition within sixty (60) days, (e) has a receiver appointed over all or any of its assets, or (f) takes any other action that Encore determines in its sole discretion adversely impacts the conditions under which the Contract was entered, then the Buyer will be in material breach of the Contract and: (i) all amounts outstanding to Encore will become due immediately; (ii) Encore may suspend or cancel any pending orders of Products and/or services; and (iii) the Buyer shall pay a finance charge on all amounts outstanding at a rate equal to amount currently charged by Encore, not to exceed the highest rate permitted by applicable law, all without prejudice to any other rights or remedies at law or in equity that Encore may have, including any right to claim actual damages. The Buyer will pay all costs of collection of any amounts due to Encore, including court costs, attorney fees, expert fees, and other expenses. In the event of the Buyer's default, Encore may, in its sole discretion, apply any payments made first to attorney fees and any costs and expenses, then to any accrued and unpaid interest, and then to any remaining balance due and owing under the Contract.

14. APPLICABLE LAW/FORUM. The Contract shall be governed by the common law of the state where the Product is manufactured, without regard to conflict of laws principles. Encore and the Buyer consent to the exclusive jurisdiction of the state and federal courts of the state where Product is manufactured. Encore and the Buyer each waive any objection based on *forum non conveniens* or any objection to venue of any such action. The Buyer and Encore expressly waive the application of the Uniform Commercial Code (UCC) as it may be adopted and enacted in jurisdictions where the Product is manufactured and where the Project site is located. To the fullest extent permitted by law, the rights, obligations, and remedies of Encore and the Buyer under the Contract shall be governed by the terms of the Contract and general common law principles of contract law, excluding the provisions of the UCC. Any provisions of the UCC that would otherwise apply to the interpretation, enforcement, or performance of the Contract, including, but not limited to, the provisions governing sales of goods, warranties, and remedies, shall not apply. Encore and the Buyer intend that their rights and obligations shall be determined solely by the terms of the Contract. This waiver of the UCC shall apply to all claims, disputes, actions, or proceedings arising out of or relating to the Contract, including any breach, termination, or enforcement thereof. By signing the Contract, Encore and the Buyer acknowledge that they have read and understood this waiver of the UCC and voluntarily waive any rights and remedies that may be available under the UCC.
15. REVIEW. The Buyer represents and warrants that it has had an opportunity to fully review the provisions of the Contract with attorneys of its choice as a result of which the Buyer acknowledges and agrees (a) that any rule of law that provides that ambiguities are to be construed against the drafting party shall not be employed in the interpretation of the Contract; and (b) that the Buyer is entering into the Contract knowingly, voluntarily, and of its own free will.
16. COUNTERPARTS AND E-SIGNATURE. The Contract and subsequent amendments, if any, may be executed in several counterparts and all so executed shall constitute one agreement binding upon all parties. The Contract and subsequent amendments, if any, may be signed manually, by facsimile, or electronically, all of which shall constitute a valid, original signature and shall be fully binding and enforceable against all parties. Notwithstanding the foregoing, these Terms may be amended or modified by Encore at any time at Encore's discretion, with or without the provision of notice to the Buyer; provided, however, that such modifications shall only be effective after they have been posted to Encore's website at <https://encoreprecastllc.com/>. Encore may provide notice of such modifications to the Buyer but shall not be obligated to do so.
17. UNENFORCEABILITY. If any of the provisions of the Contract is found to be illegal or otherwise unenforceable, such provisions, or if possible, portion of such provisions, will be stricken. The enforceability of the remaining provisions shall not be affected by illegal or unenforceable provisions that are stricken. All remaining provisions shall continue in full force and effect as if the unenforceable provision was never included in the Contract.
18. ASSIGNMENT. The Buyer shall not assign or transfer, in whole or in part, the Contract, or any of its rights therein, without the prior written consent of Encore. Without Encore's prior written consent, any attempt to assign or transfer, including a change in control of the Buyer, shall be void or a material breach of the Contract, in Encore's discretion.

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