



WITH THE EARTH IN MIND

General Terms and Conditions of Sale

These terms and conditions of sale (“Agreement”) govern the sale by Ecoverse, including its affiliates and subsidiaries (collectively, “Ecoverse”) of products and/or services and support (“Product”) sold in the United States. Notwithstanding any different, conflicting or additional terms or conditions which appear on any purchase order or other business forms submitted by a customer (“Purchaser”), such different, conflicting or additional terms will not become a part of the contract of sale between Ecoverse and Purchaser.

1. Acceptance. Upon receipt of a purchase order from Purchaser, Ecoverse shall issue an invoice for Products. Issuance of an invoice to Purchaser constitutes acceptance of the contract and performance and/or shipment by Ecoverse will commence. If Purchaser does not wish to be bound by the terms of this Agreement, Purchaser must immediately notify Ecoverse.
2. Exclusive Terms. This Agreement supersedes all prior agreements, orders, quotations, proposals and other communications regarding the Product, except that a signed prior agreement issued by Ecoverse, together with any other document incorporated by reference in this Agreement will continue to apply to the extent not directly in conflict with this Agreement.
3. Pricing and Payment Terms. All prices quoted are firm for the stated shipping date, unless specifically noted on the proposal form. Proposals automatically expire thirty (30) days after issuance unless otherwise stated or accepted prior to the expiration date. Prices are subject however, to change without notice. Ecoverse reserves the right to change, including without limitation, specifications, package and/or designs as may be required. The obligations of Ecoverse to perform hereunder are subject to the strict observance of Purchase to the payment terms established by Ecoverse in its sole discretion. Ecoverse reserves the right to change its payment and shipping terms upon advance notice to Purchaser and may require payment in advance as a condition of shipment of Product. Ecoverse reserves the right, among other remedies, to terminate any sales contract with or suspend deliveries to Purchaser in the event Purchaser fails to make any payments when due.
4. Late Payments. Purchaser agrees to pay interest on all past-due amounts at the lower of one and one-half percent (1.5%) per month or the highest rate allowed by law. In the event of a payment default, Purchaser will be responsible for all of Ecoverse’s costs of collection, including, but not limited to, court costs, filing fees and attorneys’ fees.
5. Tax. Any tax (other than income), duty or other governmental charge now or hereafter imposed on the Product or on Ecoverse shall be paid by the Purchaser in addition to the sale price. The prices quoted do not include any duties or sales, use, excise, value-added, or other taxes or charges, unless specifically noted on the proposal form. Ecoverse shall invoice Purchaser for all applicable taxes. Purchaser remains liable for payment of such taxes in the event Ecoverse fails to issue an invoice.
6. Shipment, Title and Insurance. Unless otherwise stated, Product shall be shipped F.O.B. U.S. Port. Ecoverse assumes no liability for loss or damage to the goods after delivery for shipment at U.S. Port. Title to Product and risk of loss shall pass to Purchaser upon delivery of the Product to the carrier by Ecoverse, except that a security interest in the Product, proceeds and any replacement shall remain in Ecoverse regardless of mode of attachment to realty or other property, until the full price has been paid in cash. Purchaser agrees to do all acts necessary to perfect and maintain said security interest, and to protect Ecoverse’s interest by adequately insuring the Product against loss or damage from any external cause with Ecoverse named as insured or co-insured. Purchaser hereby irrevocably constitutes and appoints Ecoverse as its attorney

in fact to execute any financing statements or other instruments or documents reasonably necessary or desirable to perfect and maintain said security interest in the Product and proceeds.

7. Noncancellation. Purchaser may not cancel or terminate for convenience or direct suspension of manufacture unless Ecoverse agrees in writing, at which time Ecoverse may negotiate mutually agreeable termination charges.
8. Warranty. Subject to the notice requirements in Paragraph 10 below, the following warranties are made by Ecoverse: (a) Ecoverse warrants that it has good title to the Product; (b) on the date of shipment, the Product is as described herein, except as to items not manufactured by Ecoverse; and (c) on the date of shipment, the Product is free of defects in workmanship and material, except as to items not manufactured by Ecoverse.

THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE EXCLUDED FROM THIS TRANSACTION AND SHALL NOT APPLY.

9. No Production Warranty. Ecoverse cannot, does not, and will not warrant any rate of production or specific date of delivery of the equipment quoted. This disclaimer of warranty is an integral part of this proposal, will be incorporated in the sale or rental agreement, and will survive the sale or rental of the equipment, together with the disclaimer of implied warranties of merchantability and fitness for a particular purpose, set forth hereinabove.
10. Exclusive Remedy. Except for any wear parts that are sold individually or incorporated into an item or Product, if within one (1) year from date of shipment by Ecoverse, or within 1000 hours of operation of an item or Product (whichever comes first), Purchaser discovers that the Product was not as warranted and notifies Ecoverse in writing within thirty (30) days thereafter specifying the defect, Ecoverse shall, at Ecoverse's option, adjust, repair or replace the Product or any affected part of the Product. Ecoverse shall bear reasonable expense of any parts and Ecoverse's labor in connection with the foregoing remedies. Purchaser shall be responsible for all other expense including expenses for removal, reinstallation and freight in connection with the foregoing remedies. Replacement parts may be, at Ecoverse's option, new or repaired parts and Ecoverse shall have the right to keep any parts replaced by it. The adjustment, repair or replacement shall be subject to the same warranties set forth above for a period of thirty (30) days or the remaining warranty period on the original item, whichever is longer. **THE REMEDIES SET FORTH IN THIS PARAGRAPH CONTAIN PURCHASER'S EXCLUSIVE REMEDIES AGAINST ECOVERSE AND ITS SUPPLIERS RELATING TO THE PRODUCT, WHETHER IN CONTRACT OR IN TORT OR UNDER ANY OTHER LEGAL THEORY, AND WHETHER ARISING OUT OF WARRANTIES, REPRESENTATIONS, INSTRUCTIONS, INSTALLATIONS OR DEFECTS FROM ANY CAUSE.**
11. Limitation of Liability. **NEITHER ECOVERSE NOR ITS SUPPLIERS SHALL BE LIABLE, WHETHER IN CONTRACT OR IN TORT OR UNDER ANY OTHER LEGAL THEORY FOR: (A) LOSS OF USE, REVENUE OR PROFIT; (B) FOR COST OF CAPITAL; (C) FOR SUBSTITUTE USE OR PERFORMANCE; (D) FOR INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES; (E) FOR ANY OTHER LOSS OR COST OF SIMILAR TYPE; (F) OR FOR CLAIMS BY PURCHASER FOR DAMAGES OF PURCHASER'S CUSTOMERS OR ANY THIRD PARTY.** Ecoverse and its suppliers shall have no obligation as to any Product, which has been improperly stored or handled, which has not been installed, operated or maintained according to instructions in Ecoverse or supplier furnished manuals, or has been modified. Ecoverse and its suppliers shall not be liable for the fault, negligence or wrongful acts of Purchaser or Purchaser's employees, or Purchaser's other contractors and suppliers.
12. Damages. Notwithstanding any other provision of this Agreement, in the event of any liability incurred by Ecoverse or any of its suppliers, the entire liability of Ecoverse and its suppliers for damages from any cause whatsoever will not exceed the purchaser price of the Product.
13. Force Majeure. Any delay or failure of Ecoverse to perform its obligations will be excused if and to the extent that it is caused by an event or occurrence beyond the reasonable control of Ecoverse and without its fault or negligence such as: acts of God; restrictions, prohibitions, priorities or allocations imposed or actions taken by a governmental authority; embargoes; fires; explosions; natural disasters; riots; wars; sabotage; inability to obtain power; or court injunction or order. Ecoverse will give Purchaser notice within a reasonable time after Ecoverse becomes aware of any such delay.
14. Supply Delay. Any other delays incurred by Ecoverse, including but not limited to, delays in obtaining from other suitable services, materials, components, equipment or transportation shall result in an extension of the time of performance equal

to the period of the delay and its consequences. Ecoverse will give Purchaser notice within a reasonable time after Ecoverse becomes aware of any such delay.

15. Storage. Any item of the Product(s) on which manufacture or shipment is delayed by causes within Purchaser's control, or by causes, which affect Purchaser's ability to receive the Product(s), may be placed in storage by Ecoverse at Purchaser's expense and risk.
16. Default in Payment. In the event Purchaser defaults in making any payments to Ecoverse and Ecoverse places the invoice and this agreement in the hands of an attorney for collection of the purchase price or other sums owing to Ecoverse from Purchaser, Purchaser agrees to pay Ecoverse's reasonable costs and expenses of collection, including attorneys' fees, whether or not any suit or action is filed and any additional costs, expenses, and attorneys' fees incurred at trial or on appeal.
17. Non-Assignment. Ecoverse and Purchaser may not assign or delegate its obligation without the express written consent of both parties which may be withheld for any or no reason.
18. Compliance with Laws. Ecoverse will comply with all laws applicable to Ecoverse. Compliance with OSHA or similar federal, state, or local laws during any operation or use of the Product(s) is the sole responsibility of Purchaser.
19. Governing Law, Jurisdiction and Venue. These Terms and Conditions shall be governed by the laws of the State of Ohio. Purchaser irrevocably submits to the exclusive jurisdiction of and venue in the courts located in Cleveland, Ohio.
20. General. Statements about the Product(s) may have been made to Purchaser by representatives of Ecoverse. Such statements do not constitute warranties and shall not be relied on by Purchaser and are not part of this agreement. The entire agreement is embodied in this writing. **THIS WRITING CONSTITUTES THE FINAL EXPRESSION OF THE PARTIES AGREEMENT AND IS A COMPLETE AND EXCLUSIVE STATEMENT OF THE TERMS OF THE AGREEMENT.**
21. Pre-Sale Product Use. **In the event that Ecoverse delivers all or a portion of the Product for temporary and conditional use prior to Purchaser committing to purchase the Product, the following terms will apply until such time as the Product is purchased by Purchaser or the Product is returned to Ecoverse, regardless of whether the Product is ultimately purchased. Accordingly, Purchaser agrees that (i) Ecoverse shall retain all right, title and interest in and to the Product until purchased by Purchaser and Ecoverse has the right to inspect, retrieve and/or remove the Product from Purchaser's premises at any time upon reasonable prior notice; and (ii) Ecoverse may enter into, or has entered into, a security agreement with a bank or other financing source ("Lender") whereby Ecoverse has, or will, grant to Lender a continuing security interest in all of Ecoverse's right, title and interest in and to the Product; and (iii) Purchaser (a) does not acquire any title or other interest in the Product except the limited and conditional right to use as expressly set forth in these terms; (b) will not permit any lien, encumbrance or security interest to attach to the Product; (c) will not permit the Product to be operated by or to be in the possession of any person other than Purchaser; and (d) will use and operate the Product only in accordance with Ecoverse's instructions and requirements.**
 - a. Ecoverse's ownership interest and the security interests of Lender in the Product shall be senior to all liens, claims and interests of Purchaser and its creditors to such Product. To the extent that Purchaser now has or hereafter may subsequently have or acquire any common law or statutory lien or rights to or on the Product, or any portion thereof, such as, without limitation, a bailment lien, or any other lien or claim currently or hereafter capable of being asserted pursuant to state or federal law now in existence or hereinafter created, Purchaser, does for itself and its successors and assigns, and any person or entity claiming by, through or under Purchaser, disclaim, waive and release any such lien or claim which does or might exist on such Product, and agrees, without limiting the foregoing, to the extent that any such lien or claim now or hereafter may exist, it shall be inferior and subordinate, in all respects, to Ecoverse's ownership interest and the lienand interest of Lender in and to the Product.
 - b. Purchaser must maintain sufficient insurance to protect the interest of Ecoverse and Lender in the Product which is stored by Purchaser in the event of any damage caused to or theft of the Product while stored with or used by Purchaser, in at least an amount equal to the entire purchase price set forth in Ecoverse's quotation and/or invoice. Purchaser agrees to cause Ecoverse and Lender to be added as an additional insured or named insured, as its interest may appear, under the loss payable clause on all relevant insurancepolicies.

- c. Purchaser acknowledges that it is holding the Product subject to these terms for the benefit of Ecoverse and Lender. Upon the oral or written direction of the Lender, Purchaser shall discontinue accepting direction from Ecoverse with regard to the Product and shall only deliver or release such Product to the Lender or the party designated by Lender in such oral or written direction. Purchaser and Ecoverse each agree and acknowledge that Lender, through any of its representatives, employees, or agents, may during normal business hours and upon reasonable prior notice, take actual or constructive possession and control of the Product stored at Purchaser, and (during normal working hours) remove the Product from Purchaser's location at any time that Lender, in its sole discretion, has determined that it is necessary to do so to protect its interests in such Product, without consent of Purchaser or of Ecoverse, and without any obligation on the part of Purchaser to determine the reason(s) for such determination by Lender or whether or not there is a then-existing event of default under the any Loan. Ecoverse agrees that Purchaser shall have no liability to Ecoverse for compliance with Lender's oral or written direction with respect to the Product.
- d. Upon Lender's request, Purchaser shall provide Lender with such information regarding the storage, location and use of the Product as Lender may reasonably request. Purchaser acknowledges and agrees that Ecoverse or Lender may file a UCC-1 financing statement to indicate Ecoverse and/or Lender's interest in the Product.
- e. Purchaser's possession and use of the Product shall be at its own risk, and neither Ecoverse nor Lender shall have any liability to Purchaser for any personal injury or property damage caused by such possession or use. Any limitations of Ecoverse's liability contained in this document shall apply to Purchaser's conditional use of the Product under this section.

Revised and Effective: December 31, 2020