

ARCH MILL SPECIALTIES, INC.

THESE TERMS AND CONDITIONS SHALL APPLY TO ALL CONTRACTS FOR THE SALE OF GOODS BY ARCH MILL SPECIALTIES, INC. ("SELLER") AND TO BUYER AND SHALL GOVERN THE RIGHTS AND OBLIGATIONS OF EACH, NOTWITHSTANDING ANY PRIOR COURSE OF DEALING, CUSTOM OR USAGE OF TRADE, COURSE OF PERFORMANCE, PRIOR INVOICE TERMS AND CONDITIONS, PURCHASE ORDERS, CONTRACTS, OR AGREEMENTS. SELLER AND BUYER HEREBY AGREE TO THE FOLLOWING:

TERMS AND CONDITIONS

Seller order acceptance is based on the condition that Buyer agrees to the terms and conditions herein. These terms and conditions shall govern upon Buyer receipt of goods and such Buyer receipt of goods shall constitute Buyer assent to said terms and conditions. These terms and conditions represent the final and complete agreement of Buyer and Seller, and no term or condition modifying or changing the provisions herein shall be binding upon Seller unless made in writing, signed, and approved by an authorized representative of Seller at the Congers, New York office. Modification of these terms and conditions shall not be effected by the shipment of goods by Seller following Seller receipt of a Buyer purchase order, shipping request, or other document containing printed terms and conditions additional to or different from those herein. Seller shall not be liable for the delivered condition of loose goods Buyer requests, as it is the policy of Seller to ship goods in cartons. Any measuring and or drawing take offs performed by Seller is performed as a courtesy to Buyer and Seller makes no representations as to quantities or sizes ordered, as same is the sole responsibility of Buyer. Sales of custom or special order goods are final. Buyer shall be charged for transportation cost increases resulting from Buyer requested order changes. Buyer shall be charged for all 3rd (third) party labor required as a result of an order.

PAYMENT

Invoices shall be paid in full prior to the shipment of goods. Invoices shall be paid in the form of cash, electronic wire transfer, bank check, or other form of certified funds. Custom orders require a 65% (sixty-five percent) deposit. Credit card transactions are subject to a 3.5% (three-point-five percent) processing fee, payable to Seller by Buyer. Seller, at its sole discretion, may not accept credit card charges in excess of \$500.00 (five-hundred dollars). Credit card sales are final.

TAXES

Buyer shall pay taxes or excises now or hereafter levied by governmental authorities, whether federal, state, or local, upon the sale, use, or transportation of goods covered herein. If Buyer claims a sale is exempt from tax it shall provide a Certificate of Exemption or Resale Number to obtain removal of said tax from an invoice. If Seller is assessed tax on sales claimed to be exempt by Buyer, Buyer shall pay or reimburse Seller for payment of same within 15 (fifteen) days of Seller notification to Buyer of same. Buyer shall indemnify and hold Seller harmless from any and all liability to the appropriate taxing authorities for amounts including, but not limited to, interest and penalties. This paragraph shall survive delivery of and payment for all orders.

TITLE

Seller shall retain title and a security interest in all goods it provides Buyer until Seller has been paid in full for same. Seller shall also retain the right to file a lien against any and all property for which such goods are used until Seller is paid in full. Buyer hereby waives any notice requirement by Seller as a condition precedent to file a Mechanics Lien.

RISK OF LOSS

Risk of loss for goods shall pass to Buyer when: (1) Seller tenders goods to an agent or employee of Buyer at the warehouse of Seller; (2) Seller tenders goods to a carrier designated by either Buyer or Seller, whether or not such goods are required to be delivered to a particular destination; or (3) Seller tenders goods to an agent or employee of Buyer at the jobsite or other premises of Buyer. Claims for shortage of or damage to goods shall be made within 24 (twenty-four) hours of Buyer receipt of goods and shall be accompanied by a carrier signed delivery receipt denoting that the carrier received goods from Seller in the condition Buyer claims.

CARRIER DESIGNATION

Seller reserves the right to designate a carrier for all sales which include delivery in the quoted price. If delivery of goods requires any of the following, Buyer shall bear all expenses for same: (1) a permit; (2) the services of an engineer or other specialized personnel; or (3) results in the issuance of a summons to Seller. Buyer shall receive an additional invoice for such additional expenses and the balance for same shall be due and payable subject to the same terms and conditions as for the sale of goods herein.

TIMED DELIVERIES

Seller does not guarantee the date or time of delivery and disclaims all liability for consequences of delivery delay.

LIMITED WARRANTY

THE FOREGOING WARRANTY IS NON-ASSIGNABLE, IN LIEU OF, AND EXCLUDES ALL OTHER WARRANTIES NOT EXPRESSLY SET FORTH HEREIN, WHETHER EXPRESS OR IMPLIED, BY OPERATION OF LAW, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS. **NO** WARRANTIES EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.

Goods are warranted to be free from defects in material and workmanship for a period of 15 (fifteen) days from date of receipt. Buyer claims for defects in material or workmanship shall be deemed waived by Buyer unless submitted to Seller in writing within 15 (fifteen) days from date of receipt. Seller shall not be liable for incidental or consequential losses, damages, or expenses, directly or indirectly, from the sale, handling, or use of goods, or from any other cause relating thereto, and Seller liability is expressly limited to the replacement of goods not in compliance with this agreement, or, at its sole discretion, crediting Buyer an amount equal to the purchase price of such goods, whether such claims are for breach of warranty, negligence, or

otherwise. Buyer acknowledges that no labor costs are included in or covered by this warrantee. Under no circumstance shall the Seller be liable for labor costs associated with the installation of and/or the finishing of replaced goods. Furthermore, whether delivery is to be effected by either Seller or carrier, Seller does not guarantee the date or time of delivery and disclaims all liability for consequences of delivery delay. Seller shall not be liable under the foregoing warranty for any loss or damage caused by improper handling, storage, application, or use of goods, or for goods not applied and used according to the latest instructions and specifications of Seller; instructions available upon request. Seller does not guarantee dye lots for goods, as an exact match of color, wood grain, profile, mould size, milling, cannot be guaranteed. Seller provides **NO** warranty or guarantee for goods it does not manufacture, and goods manufactured by 3rd (third) parties are sold "as is". Such goods may carry a warranty granted by their respective manufacturers, and Seller in **NO** way claims responsibility for such goods or their warranties.

IN CONNECTION WITH THE SALE OF SELLER MANUFACTURED CUSTOM WOOD, STEEL, FIBERGLASS, AND MDF DOORS, THE FOLLOWING ITEMS SHALL **NOT** BE CONSIDERED MANUFACTURING DEFECTS IN MATERIAL OR WORKMANSHIP AND SHALL **NOT** BE COVERED BY ANY WARRANTY HEREIN.

- Warps of 1/4" (one-quarter) of an inch or less for 6'-8" (six foot eight inches) tall doors and or warps of 5/16 (five-sixteenths) of an inch or less for 8'-0" (eight foot) high doors, on either the plane of door. Distances is determined by placing a straight edge on the suspect concave face of the door and measuring the point of maximum distance between the bottom of the straight edge and the face of the door, accounting for recess panels and glazing. Seller, at its sole discretion, may defer action on any claim of warping for a period of 12 (twelve) months, as a temporary warp condition may occur while the door adjusts to local temperature and humidity.
- Warpage as a result of not sealing and finishing all four edges and two faces of the door within forty-eight hours of delivery.
- Doors greater than 36 (thirty-six) inches wide and or 96" (ninety six inches) tall are not covered by this warranty.
- Doors with chips less than 3/16 (three-sixteenths) of an inch in size.
- Stiles or rails with checks or splits less than 5/32 (five-thirty seconds) of an inch.
- Joined parts separated less than 5/32 (five-thirty seconds) of an inch.
- Bow or non-alignment of the jamb frame in which a door is hung.
- Color variation or unsatisfactory results in stain, color, gloss, or texture, or appearance inconsistency resulting from field application of stain or other finishing material; finishing instructions available upon request.
- Natural variation in color, grain patterns, texture, mineral streaks in solid or veneered wood doors or panels.
- Damage by failure to comply with handling and finishing instructions or failure to perform normal or routine maintenance; instructions available upon request.

CANCELLATIONS AND RETURNS

If Buyer fails to make payment in accordance with this agreement, a collateral agreement, or fails to otherwise comply with any provision hereof, Seller, at its sole discretion, may cancel any unshipped portion of an order, in addition to any other available remedies. Buyer shall be liable for unpaid balances. Buyer shall pay a restocking charge of 30% of the invoice price or \$25.00 (twenty-five dollars), whichever is greater, plus all freight charges, on goods accepted for return by Seller. All returns shall require prior Seller approval and obtain a return goods authorization number.

OVERDUE ACCOUNTS

Interest shall be assessed to Buyer at a rate of 1.5% (one-point-five percent) monthly or 18% (eighteen percent) per annum on all unpaid balances 30 (thirty) days past due. Interest amounts shall appear on Buyer account statements. Such account statements shall be deemed accounts stated if Buyer fails to dispute same. If Seller retains counsel to collect unpaid balances, Buyer shall be liable for reasonable attorneys' fees of Seller calculated on an hourly basis and any additional court costs.

FORCE MAJEURE

If Seller performance is prevented or delayed by strikes, riots, lockouts, war, embargoes, or exceptional impediments to transportation, earthquake, fire, action by Federal, State, or local government or authorities, action by foreign powers, acts of God, reduction of sources or supply, or any cause or circumstance, not limited to the above, which is beyond the reasonable control of Seller, Seller shall not be held liable for the consequences thereof and the obligation to make delivery or perform warranty service shall be suspended while the causes are in effect until the resumption of work after termination of the causes. The foregoing shall apply even though one or more of the causes exist at the time of the order or occur after Seller performance of its obligations are delayed for other causes.

GOVERNING LAW

This agreement shall be construed and governed by the laws of the State of New York and the United State of America. If any provision of this agreement is invalid, then all valid parts severable from the invalid part remain in effect. Buyer hereby irrevocably submits to the jurisdiction of any state or federal court within the County of Rockland, New York. Buyer agrees to the venue of said courts and that any dispute or legal action arising from this agreement shall solely be entertained in such courts. Buyer further agrees to: (1) service of process by certified or registered mail, or by any manner permitted by law; (2) irrevocably waive the defense of inconvenient forum; and (3) irrevocably waive trial by jury.