



Peninsula Building Materials Co.

TERMS AND CONDITIONS OF SALE

- 1. Entire Agreement.** Sale of goods is expressly conditioned on Buyer's assent to these Terms and Conditions of Sale ("Terms"). Seller expressly rejects any terms that are inconsistent, additional or different to these Terms, including, but not limited to, terms described in Buyer's purchase orders or other agreements, unless accepted to in writing by one of Seller's owners or officers.
- 2. Pricing.** Prices shown reflect the price of goods, applicable taxes and delivery, if applicable, and do not include anchoring slots, holes or hardware shop drawings, cut tickets or engineering.
- 3. Payment.** Buyer shall pay the full amount of Seller's invoice(s) at time of sale unless Buyer has a credit account in good standing with Seller. Credit account sales shall be paid 25 days from the statement date, unless otherwise specified on the invoice. If payment in full is not received by the due date, and at the sole discretion of Seller, Buyer shall owe a late fee of 1.5% per month, (18% per annum), or the maximum allowed by law, on all unpaid balances. Seller retains a security interest in all materials until they are paid in full. All goods sold hereunder pursuant to a credit account are subject to continuing approval by Seller of Buyer's creditworthiness.
- 4. Special or Custom Orders.** Seller requires a non-refundable 50% deposit payment at time of order for all Special or Custom orders for non-stock material with a signed acknowledgement of order, with balance due prior to shipment. Special order deposits may not be applied to a customer credit account. Buyer is responsible for taking delivery of Special or Custom order materials within 30 days of notice that materials are available for delivery after which a storage fee will apply.
- 5. Natural Materials.** Prices are based on Buyer acceptance of natural variations in color and markings, characteristic of the quarry from which stone and other natural materials are obtained. Marble, Travertine, Limestone, Sandstone and other natural stone are products of nature and cannot be guaranteed for soundness, uniformity of color, texture or chemical content. All specimens submitted by Seller are tendered as an indication of general characteristics and are subject to the variation inherent in natural products.
- 6. Inspection and Returns.** Buyer must inspect all materials upon delivery. If damage has occurred, note such on the bill of lading BEFORE signing for merchandise. Buyer must obtain Seller's written authorization in order to receive credit for returned goods, which are subject to a minimum restocking charge of 25%. **Special order or custom materials are not returnable.** All claims must be filed with Seller in writing within five days of delivery.
- 7. Delivery.** The F.O.B. point shall be Buyer's designated delivery site for delivered goods or Seller's store for all other sales. Title and risk of loss shall pass to Buyer at the applicable F.O.B. point. **Seller shall not be liable for claims of damage that may occur due to unsafe loading or unloading of material(s) under direct instruction from purchaser or purchaser agent.** Seller shall not be liable for delay or default in delivery caused by a Force Majeure Event, defined as any event beyond Seller's reasonable control, including, but not limited to, acts of God, changes in governmental regulations, labor disputes, war, terrorism, including Manufacturer or Quarry lead times that are affected by weather, Holidays or any unexpected circumstances.
- 8. Warranty Limitation.** Seller is a reseller of goods only. Seller extends to Buyer any transferable warranty extended to Seller by the manufacturer or Seller's supplier with respect to goods purchased hereunder. **Seller expressly disclaims any responsibility for stone products used in or around salt water pools or on any material post installation.** SELLER EXCLUDES AND DISCLAIMS ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
- 9. Limited Liability.** TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, SELLER SHALL NOT BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY CLAIM THAT IS PROPERLY A CLAIM AGAINST THE MANUFACTURER OR FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION, LOST PROFITS, BUSINESS OPPORTUNITIES, LOSS OF USE, ATTORNEYS' FEES, OR DELAY DAMAGES, THAT ARISE DIRECTLY OR INDIRECTLY OUT OF THE PERFORMANCE OR BREACH OF THESE TERMS, WHETHER SUCH DAMAGES WERE FORESEEABLE OR CAUSED BY SELLER'S BREACH OF THESE TERMS. IN ALL EVENTS, SELLER'S LIABILITY SHALL NOT EXCEED THE AMOUNT PAID TO SELLER FOR GOODS THAT ARE THE SUBJECT OF SUCH CLAIM(S).

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