

## **ACADIA TERMS AND CONDITIONS**

Notwithstanding anything to the contrary, the following terms and conditions shall prevail and control any agreement and/or sales transaction by Acadia to supply material, labor or delivery services to Buyer. The following terms and conditions govern all sales transactions, and are governed by the laws of the Province of New Brunswick

### **GENERAL TERMS AND CONDITIONS**

The acceptance of orders, whether oral or written, is conditioned upon Buyer's agreement to the terms and conditions herein. Acceptance of delivery of goods sold hereunder constitutes Buyer's voluntary assent to said terms and conditions, which represent the full and complete agreement between the parties. No modifications, amendments or additions hereto shall be binding upon Seller unless and until made in writing and signed by a principal officer of Seller at the home office in Dieppe, New Brunswick. These terms shall not be modified, amended or supplemented by the terms and conditions which may be contained in Buyer's purchase order, shipping request, or similar forms. Seller shall not be liable for the condition upon delivery of any loose items of material ordered by Buyer. Seller's policy at all times is to ship cartons of goods and not in loose form.

### **APPROVAL OF ORDERS**

Orders are subject to change without notice. Buyer shall pay the price in effect for any goods ordered at the time of shipment of same. Any increase in transportation costs resulting from changes or cancellations by Buyer shall be payable by Buyer immediately upon written notice, proof of loss, and demand.

### **CASH DISCOUNTS**

Only those cash discounts indicated on this invoice are authorized, and they will only be allowed if taken within the time period stated, provided that there are no past due items owing from Buyer to Seller. This paragraph shall not be construed as an obligation of Seller to provide cash discounts to Buyer, which shall only be at the sole option of Seller.

### **TAXES**

All taxes and excises now or hereafter levied by any governmental authority, upon the sale, use or transportation of any goods covered hereby, shall be borne by Buyer.

### **TITLE OF GOODS, ETC.**

Title of goods shall pass from Seller to Buyer:

- (a) Upon delivery and acceptance at job site or business premises;
- (b) Upon receipt by Buyer or its authorized employee or agent when picked-up at a warehouse;
- (c) Upon delivery to a carrier/shipper when transported to Buyer or its designated destination by third parties. In this instance delivery to the carrier constitutes delivery to Buyer, and Buyer shall be solely responsible for risk of loss or damage during delivery.
- (d) Upon Seller's receipt of special order goods they will become the property of the Buyer.

After 48 hours, if the Buyer has not laid claim to them, the Buyer will be invoiced, and may also be charged for storage of said goods. Further, if those goods should become damaged while in the control of the Seller, the Buyer will be liable. Additionally:

- (1) The Seller does not guarantee timed deliveries. Any representations or statements by

Seller, its employees and agents as to delivery dates and times are estimates only, and Seller shall not be liable for damages arising from deliveries not made at the time or on the date requested by Buyer.

(2) The Seller cannot guarantee dye lots on merchandise.

(3) Buyer agrees to accept each manufacturer's terms and conditions regarding their respective goods.

(4) Buyer shall pay all outside labor.

(5) No field repairs shall be charged-back to Seller.

### **DESIGNATED CARRIER**

For sales made on a delivered price basis, Seller reserves the right to designate the carrier. If delivery requires obtaining permits or other authorizations, services of specialized personnel and/or results in the issuance of a motor vehicle summons to Seller, all such expenses shall be borne by Buyer. A separate invoice shall be submitted for such expenses which shall be subject to the terms and conditions hereunder.

### **LIMITATIONS ON WARRANTY**

Seller warrants all goods sold to be free from substantial defects in material and workmanship under normal use and maintenance.

Sellers sole obligation under this warranty shall be limited to, in its sole discretion, repairing, replacing or allowing credit for, any good which proves substantially defective in material or workmanship within 30 days after delivery to Buyer, provided however, that (a) notice of such substantial defect and satisfactory proof of same is promptly given by Buyer to Seller in writing, and (b) such material shall have been returned to Seller, with transportation charges prepaid, and found by Seller to have been defective.

This warranty does not apply to damage or defects in any product caused by improper construction or installation, by overloading, or misuse, neglect or accident, nor does it apply to any product which has been repaired, modified or altered in any way which, in the sole judgment of Seller, affects the performance, stability, or general purpose for which it was manufactured. Seller offers printed directions for the installation and use of certain goods, which are available free of charge upon request.

THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES (EXCEPT OF TITLE), EXPRESSED OR IMPLIED, AND THERE ARE NO WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL SELLER BE LIABLE FOR CONSEQUENTIAL OR SPECIAL DAMAGES. SELLER ALSO CONTENDS THAT THEY ARE A DISTRIBUTOR OF PRODUCT MANUFACTURED AND WARRANTED BY OTHERS AND IS SOLD "AS IS" BY SELLER AND IS SUBJECTED TO THE MANUFACTURER'S WARRANTY, WHICH APPEAR ON THE LABEL OF THE PRODUCT SOLD TO YOU.

This warranty does not apply to parts, accessories, attachments, hardware, or other items not sold by Seller to Buyer which may become affixed to the goods; Buyer shall rely solely on the existing warranties, if any, of the respective manufacturers thereof. The customer is ultimately responsible for meeting the intent of the manufacturer specification.

### **CANCELLATIONS AND RETURNS**

Seller reserves the right, in its sole discretion, to require payment for goods in advance, or to require Buyer to give Seller satisfactory security for Buyer's obligations hereunder. If Buyer fails to make payment or comply with any provision hereof, Seller may at its option, in addition to all other remedies available to it, cancel any undelivered/unshipped portion of Buyer's order. There will be a 20% or \$25 restocking fee, whichever is greater, on stock item returns subject to inspection. Additional freight, equipment and labor charges may be deducted from refund amount. Non-stock items cannot be returned. No returns will be accepted after 30 days from the invoice date.

### **CREDITS AND ADJUSTMENTS**

Credits and adjustments shall be refunded 30 days from the processed date in the form of store credit. All store credits must be used within 1 year. Unapplied credits older than 3 months will be applied to finance charges accrued on your account. Failure to include remittance advice with payment will result in payment applied to oldest invoice.

### **OVERDUE ACCOUNTS**

Finance charges will be assessed against the Buyer at 2% monthly on all balances which remain unpaid 30 days after delivery.

The failure of the Buyer to reject in writing any invoice sent to it by the Seller within 30 days from invoice date shall be deemed to constitute acceptance of all items and charges as stated in the invoice. If Seller retains attorneys to collect overdue accounts, Buyer shall be responsible for all costs of collection, including all attorney's fees and court costs involved in collecting such debt.

### **SURVIVAL**

This agreement shall survive the sale and delivery of goods hereunder.

### **SIDEWALK DELIVERY**

Delivery services at jobsite are at customer's own risk.

### **INVOICE DISCREPANCIES**

All invoice discrepancies including price adjustments, processing fees and other add-ons must be disputed within 15 days of the invoice date.