

Terms and Conditions

The following terms (the "Terms") apply to any customer ("Customer") purchase of any Company (defined below) product ("Product").

1. Orders by Customer may be submitted by signed purchase order, which orders shall not be binding until written confirmation by Arriscraft Canada Inc. (hereinafter, the "Company"). These Terms and the attached Warranty shall control over any Customer purchase order or document. The Company shall not be liable for any delay or failure to deliver any Product in case such delay or failure is caused, in whole or part, by any event or circumstance partially or fully beyond the reasonable control of the Company, including but not limited to labor disputes, strikes, war, riots, insurrection, civil disturbance, fire, flood, accident, storm, epidemic, pandemic, delays of common carriers, failure of supplies, or an act or God. When Distributor

Customers place a purchase order, a shipping schedule must be included before the material can be scheduled for manufacture.

This shipping schedule will be subject to availability in effect on date received.

2. Unless expressly and fully excepted by the supply agreement between the Parties, all prices, to include those on the Company's price list, are subject to change for any reason including increased plant and other charges at the time of sale. Pricing does not include state and/or local taxes, all of which are Customer's responsibility. The Company reserves the right to require pre-payment for special order or custom Product and/or storage charges in the event Customer delays scheduled delivery. Special Production products are produced **only** after a purchase order has been received and **will be priced at 20% above FOB list price**. All shapes or any item not listed as a Stock item which have been ordered and produced, must be paid for whether taken or not. If material is paid for and not taken it will be subject to sale or disposal by the Company. Cancellation is not permitted after production has started.

3. Distributor Customer: Product is sold "FOB Origin-Freight Collect" and title and risk of loss transfers to Customer upon tender to Customer's carrier. Direct Customer: All risk of loss transfers to Customer upon delivery to Customer or Customer's carrier or agent. All Customers: Customer will inspect the goods immediately upon receipt and report loss or damage within 24 hours to the carrier and the Company or be barred from any claim. Customer will provide the Company with written notice of any claimed defect or breach of warranty (including claims from Customer's purchaser or any end user) as soon as possible and will, to the maximum extent possible, assist the Company in minimizing any damage(s) resulting from any claimed defect or breach of warranty. Distributor Customer: Demurrage begins 24 hours after actual or constructive placement of all cars shipped on 150,000-pound rates.

4. Invoice terms are net 30 days unless different terms have been applied to an individual account. In the event action is taken to collect from Customer, Customer shall be responsible for all costs incurred by the Company, including reasonable attorney fees. A 1.5% finance charge will be assessed on past due balances at time of statement.

5. Distributor Customer shall insure that all Product conforms to the Company's specifications before re-sale and that all packaging, including product literature and instructions, are in good order and delivered to Product purchasers. Direct Customer shall insure that all Product conforms to project specification before installation and that all packaging, including product literature and instructions, are delivered to Customer's purchaser or any end user. Customer shall indemnify, defend at its cost, and hold the Company harmless for, from, and against any and all claims, causes of action, damages, fines, judgments, penalties, costs, liabilities, losses, or expenses resulting from a breach of these obligations.

6. ***The Company makes no warranty that extends beyond the Company product description. The Company specifically disclaims and excludes any implied warranty of merchantability or fitness for a particular purpose. All goods are subject to variations permitted under applicable industry standards, including size, color, texture, chippage, or warpage. Samples (including cards) are illustrative only and may not serve as the basis for any product warranty. Product use or resale is acceptance as conforming goods.***

7. ***Customer's sole and exclusive remedy with respect to any product defect, non-conformity, or breach of warranty or contract shall be preinstallation product replacement, refunding of the purchase price at the time of original purchase, or the utilization of color correction techniques, all subject to the Company's sole discretion. The Company shall not be responsible or have any liability for any commercial loss, indirect, consequential, special, incidental, punitive, or exemplary damages for any reason, including, but not limited to any damages for replacing or removing any brick, stone, masonry, or other product from any structure. The cumulative amount of all payments, obligations, or liabilities hereunder, including for damages of any kind, shall in no event exceed the original purchase price of the particular order, lot, shipment, or the original purchase price of that portion which is not repaired or replaced (whichever lesser is applicable) with respect to which a claim is asserted.***

8. Claims of any nature pertaining to any Product shall be filed in a court of competent jurisdiction within **one (1) year** of delivery or be forever barred. In the event that the Company successfully defends against any claim filed by Customer, Customer shall be responsible for the Company's costs of defending said claim(s), including but not limited to reasonable attorney's fees.

9. The Company reserves, in its sole discretion, the rights to (a) suspend sales, including installment sales, to Customer if any part of Customer's account with the Company is delinquent, (b) place Customer on credit hold, and (c) demand that all Product is paid for in full prior to delivery. No goods may be returned without prior authorization, and returns are subject to applicable restocking fees.

10. Where local deliveries apply: Truck Deliveries "F.O.B. job site" will be made only on suitable and accessible surfaces. When the Customer requests delivery "inside the curb", Customer assumes all responsibility for mud tracked on streets and for any damage, including sidewalks, driveways, buildings, trees, shrubbery, lawns, silt fence, and any other structure. Delivery in separate lots is permitted.

11. Except as otherwise provided in writing, these Terms and the attached Warranty supersede any and all prior or contemporaneous understandings, negotiations, discussions, or agreements and constitute a complete, exclusive, and final written expression of all the terms of sale, and any representations, promises, warranties, or statements, or conditions by the Company or its agents that differ in any way from the terms hereof shall be given no force or effect. Only a writing signed by an Officer of the Company may amend these terms. No waiver of any provision herein shall constitute a waiver of any other provision, nor shall such waiver constitute a continuing waiver.