

Sales Terms and Conditions

These Sales Terms and Conditions shall be the sole terms and conditions governing the sale of goods by Hoover Architectural Solutions, LLC ("Hoover") selling Products to a purchaser ("Customer"). The identity of Customer, the identity of the goods being purchased (the "Products"), the quantity of Products being purchased, the destination for delivery of the Products, and other material information concerning Customer's order shall be set forth in Customer's purchase order ("Purchase Order") and provided to Hoover. These Terms and Conditions (these "Terms and Conditions") are hereby incorporated into and made a part of each such Purchase Order.

All orders are subject to approval and acceptance by a duly authorized representative of Hoover. Upon the earlier of Hoover's written acceptance of the Purchase Order or acceptance by Customer of Products furnished by Hoover in response to such Purchase Order, the Purchase Order, the written acceptance, if any, and these Terms and Conditions and Hoover's Customer Acknowledgement Form ("Customer Acknowledgment"), as applicable, shall be the complete and final agreement (the "Agreement") between Hoover and Customer with respect to the purchase and sale of Products identified in the Purchase Order, provided, however, that any pre-printed or form language appearing in Customer's Purchase Order shall not become a part of the Agreement. HOOVER'S ACCEPTANCE OF ANY CUSTOMER PURCHASE ORDER IS EXPRESSLY MADE CONDITIONAL UPON CUSTOMER'S ACCEPTANCE OF THESE TERMS AND CONDITIONS, AND HOOVER OBJECTS TO ANY ADDITIONAL OR DIFFERENT TERMS AND CONDITIONS, WHETHER CONTAINED IN CUSTOMER'S PURCHASE ORDER OR OTHERWISE. HOOVER WILL NOT BE DEEMED TO HAVE WAIVED THESE TERMS AND CONDITIONS OF SALE IF HOOVER FAILS TO OBJECT TO PROVISIONS CONTAINED IN CUSTOMER'S PURCHASE ORDER, OTHER FORMS OR OTHERWISE. It is Customer's obligation to sign the sales agreement, but Customer's acceptance of the Product will constitute agreement to these terms whether Customer has signed a sales agreement or not.

ACCEPTANCE OF ORDERS. The acceptance of orders constitutes a complete and binding contract which cannot be modified or canceled without written consent of Hoover, except that all orders are accepted subject to delays caused by strikes, fires or any other causes (including those set out in the section "Force Majeure" below) beyond the control of Hoover. All orders are accepted subject to governmental regulation on material usage, whenever applicable.

PAYMENT. Hoover stated payment terms are Net 30 day from date of invoice, unless otherwise approved in writing by a duly authorized representative of Hoover. Early payment discounts are available. Please contact the Hoover Credit Department for additional information. Receipt of payment by the purchaser is not a condition of payment to Hoover. Purchaser's unsatisfactory credit status shall be cause for cessation of deliveries. It is the Customer's responsibility to ensure full and effective payment for goods is received by Hoover in accordance with its instructions. Hoover accepts no responsibility for improperly directed payments, whether due to fraud, deception, or any other cause or by electronic or any other means.

CREDIT CARD PAYMENT (U.S. and Canada Customers Only). Hoover will accept credit card payments. Credit Card invoices are paid immediately upon shipment. No early payment discounts are available with credit card payments. Please contact the Hoover Credit Department for additional information.

FREIGHT CHARGES AND RISK OF LOSS. Unless stated otherwise, all items are shipped CPT (Incoterms 2020) Buyer's facility. Title to the products transfers with risk of loss.

CLAIMS. No claims due to errors, shortages or rejection because of defects or defective materials ascertainable on visual inspection will be considered unless reported to Hoover within ten (10) days after receipt of shipment. Claims for damages resulting from delays or use of defective materials will not be honored.

DELIVERY. Orders should include complete shipping instructions. Hoover reserves the right, for Customer's sole account, to ship as it deems advisable unless specific instructions are given. Customer is responsible for arranging for loading, freight and insurance from Hoover's manufacturing facility to Customer's destination. Hoover will use reasonable efforts to meet delivery dates, but such dates are deemed approximate and Hoover shall be allowed a reasonable variance from all such dates and will not be responsible for any delays in filling the order nor liable for any losses or damages resulting from such delays. In no event is Hoover subject to any charges, penalties, liquidated damages, back charges, penalties or liability of any kind for delayed delivery. Hoover shall not be liable for damages caused by delays in delivery by carriers. Customer will file claims with carrier for all shortages, damages or delays delivered by common carriers.

TOLERANCES. Unless otherwise stipulated, orders shall be carried out in accordance with the customary tolerances in current quality. The requested quantities shall be respected as closely as possible, but unless by specific and express agreement, we reserve the right to furnish a certain percentage below or above the ordered quantity, in each case in accordance with the results and/or necessities of production. The recipient shall immediately examine the quantity, weight, dimensions and quality.

FORCE MAJEURE. Hoover shall not be liable for delays, failure or inability to perform due to strikes, labor disputes, lockouts, fire, flood, war, declared or undeclared, insurrections, riots, acts of God, embargoes by foreign nations, inability to obtain or unusual delay in obtaining materials, shortages of power needed to operate Hoover facilities, governmental regulations or priorities, or any other cause beyond the control of Hoover. In case of any delays in receipt or shortages of materials or shortages of power needed to operate Hoover facilities, Hoover reserves the right in its sole discretion to determine the assignment of materials, and the order of priority in filling orders. Hoover also reserves the right in its sole discretion to cancel orders by written notice in the event Hoover believes that by reason of the foregoing it will not be able to meet the scheduled completion date.

SERVICES. Any services, technical advice or recommendations offered by Hoover are intended for use by persons with skill and at their own risk. Hoover is not responsible, and Customer hereby waives any claims against Hoover, for damages or liabilities incurred, or results, from using any services, advice or recommendations.

INDEMNIFICATION. Customer is solely responsible for proper selection and installation of Hoover Products based on its customer's demand, the fabrication/transformation of Hoover Products, as well as the incorporation of Hoover Products into other products (if this is applicable). Customer shall indemnify, defend and hold Hoover harmless from and against any and all damages arising out of or relating to improper product selection, application, use, misuse, neglect, abuse of Products or improper installation or incorporation of Products or transportation of Products.

NO LIABILITY FOR LOCAL LAWS OR CODES. Laws and building and safety codes governing the design and use of Hoover's Products, and specifically aluminum composite materials, vary widely. Hoover does not control the selection of product configurations, nor how Hoover's Products are fabricated, transformed or otherwise configured or used or how Hoover's Products are combined with other materials. Hoover disclaims any responsibility for any of the foregoing and assumes no responsibility therefor. It is the responsibility of the Customer, the owner, the architect, the general contractor, the installer and the fabricator/transformation, consistent with their roles, to make these determinations in strict conformity to all applicable national, regional, state, provincial and local building codes and regulations and interpretation, including without limitation those relating to building construction, safety and any other applicable statutes. Hoover is dependent upon Customer to provide true, accurate and complete information relating to Product purchases including without limitation information provided on a Customer Acknowledgment.

ORDER CANCELLATION, CHANGE CHARGES. Customer may not change or cancel or partially cancel any order that has already been accepted by Hoover without the prior written consent of Hoover. In the event Hoover approves a change to an order or a cancellation or partial cancellation of an order that has already been accepted by Hoover, Hoover may assess a charge to the Customer for costs incurred in performance of that portion of the order that has been changed or cancelled up to and until the time Hoover receives notice of the change or cancellation. Changes or cancellations for non-standard items or discontinued Products will be subject to charges for cancellation or change for those costs incurred in performance of that portion of the order that has been cancelled or changed up to and until the time Hoover receives notice of the change or cancellation.

SECURED CREDIT TERMS. No cash discount is allowed on merchandise delivered by truck, C.O.D. (including Parcel Post and Rail Express), and sight draft bill of lading on a net basis.

RETURNED MATERIAL. All sales are final. Any returns of Products must be in strict accordance with Hoover's customer return policy in effect from time to time and available upon Customer request. Returns will not be considered for Products that are discontinued or are not standard (such as non-standard colors, widths, lengths, or core thickness). Hoover will not accept any material returned for credit unless such return has been previously authorized in writing by Hoover and subject to a restocking fee that will be set by Hoover in writing as part of the authorization and must be paid by Customer before the return will be accepted. Returns must be requested by Customer within ninety (90) days of receipt of material. Customer must return material within thirty (30) days of receipt of written authorization from Hoover. Material returned under such an authorization will be subject to regular inspection by Hoover and all damaged material will be rejected and will not be eligible for a credit of any kind. Skids must be repacked by Customer to ensure safe arrival. Customer must pay the freight and make all arrangements for shipping the material to Hoover. The Return Authorization Number must be marked on all skids and packaging documents, or the returned material will be refused.

INSTALLATION. Hoover hereby disclaims all liability for, and is not responsible or liable for, any damages or costs that may result from improper installation of its Products. It is the responsibility of Customer purchasing a Hoover Product to ensure that the Hoover Product is installed properly. This responsibility is retained by Customer even though the Product may be resold for installation by a third party. Hoover will not be liable for damages and costs that result from improper installation of Hoover Products, regardless of who actually performs the installation.

LIMITED WARRANTY. Hoover warrants to Customer that its Products shall be free from material defect in materials and workmanship for a period of two (2) years from the date of substantial completion of the project, provided however, that the limited warranty period shall begin in no event later than six (6) months from the date of shipment of Product by Hoover. This limited warranty and remedy for material defect in materials and workmanship ("Limited Warranty") applies only to defects appearing within the earlier of two (2) years from substantial completion of the project or six (6) months from the date of shipment and only if Hoover is notified in writing within sixty (60) days after such defect either (i) appears or (ii) should have been discovered after the exercise of reasonable diligence. Failure of the Customer to notify Hoover within such period shall automatically relieve Hoover of any and all responsibility and/or liability under this Limited Warranty. **EXCEPT AS EXPLICITLY STATED HEREIN, THE WARRANTIES SET FORTH IN THIS LIMITED WARRANTY AND REMEDY ARE IN LIEU OF ALL OTHER REPRESENTATIONS, WARRANTIES OR OTHER AGREEMENTS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WHICH ARE HEREBY DISCLAIMED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.** This Limited Warranty does not cover, and Hoover hereby disclaims all liability for, the installation of Hoover Products, and any particular application or selection of the Product for any particular project or design. HOOVER'S PRODUCTS ARE PRODUCED FOR COMMERCIAL APPLICATIONS. THIS LIMITED WARRANTY DOES NOT COVER, AND HOOVER HEREBY DISCLAIMS ALL LIABILITY FOR, ANY PRODUCTS WHICH HAVE BEEN SUBJECT TO ABUSE, ALTERATION, NEGLIGENCE, IMPROPER STORAGE, MISUSE, ABNORMAL USE, ACCIDENT, FIRE, WAR, FLOOD, EARTHQUAKES, ACTS OF GOD, OR TO WHICH PARTS, NOT SUPPLIED BY HOOVER HAVE BEEN ADDED, OR TO DEFECTS CAUSED BY DEPRECIATION OR NORMAL WEAR. All decisions regarding the existence of defects in material and workmanship and the occurrence of any of the matters described in the preceding paragraphs or affecting this Limited Warranty shall be made by Hoover and shall be final and binding upon all parties.

The sole and exclusive remedy with respect to this Limited Warranty or with respect to any other claim relating to defect or any other condition or use of the Products supplied by Hoover, however caused, and whether such claim is based upon breach of representation, warranty, condition, contract (fundamental or otherwise), tort (including negligence), strict liability or any other theory is limited to, at Hoover's option, a refund of the original purchase price of each piece of defective Product, or a replacement Product for each piece of defective Product only. In no event does Hoover's warranty cover the cost of shipping, labor, or sundry materials required to remove and/or replace any defective Product.

The Products replaced shall be warranted to the same extent as the original Products and to the original expiration date, and this Limited Warranty shall not be deemed to have been extended from the date of such warranty work. At no time does this Limited Warranty confer upon the Customer or any other party the right to proceed with repair, replacement or refinishing, without the written notice and agreement by a duly authorized officer of Hoover. Any such work undertaken by the Customer or any other party shall be for the Customer's or other party's own account and shall result in this Limited Warranty becoming null and void.

This is the only warranty made to Customer in connection with the sale and distribution of Hoover's Products. No other representative or any other person is authorized to make or makes any warranty, representation or promise with respect to Hoover's Products to Customer. No terms or conditions other than these Terms and Conditions, and no agreement or understanding, oral or written, in any way purporting to modify this Limited Warranty to Customer shall be binding on Hoover unless made in writing and signed by a duly authorized officer of Hoover.

NOTICES. All notices given under or pursuant to this Limited Warranty shall be in writing and sent by registered mail, postage paid, return receipt requested, to the party to whom such notice is to be given. All such notices as set forth above shall be considered served when received.

LIMITATION OF LIABILITY. HOOVER'S AGGREGATE TOTAL CUMULATIVE LIABILITY UNDER THESE TERMS AND CONDITIONS, INCLUDING THIS LIMITED WARRANTY, OR OTHERWISE MADE IN CONNECTION WITH THE SALE AND DISTRIBUTION OF HOOVER PRODUCTS IS LIMITED TO THE DOLLAR AMOUNT OF THE CUSTOMER'S ORIGINAL PAYMENT MADE TO HOOVER FOR PRODUCT FURNISHED BY HOOVER. HOOVER SHALL NOT BE LIABLE FOR SPECIAL, DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF PROFITS OR GOODWILL, DAMAGES FOR NEGLIGENCE IN THE MANUFACTURE, DESIGN, FABRICATION/TRANSFORMATION OR INSTALLATION OF THE PRODUCT, OR OTHER COMMERCIAL LOSS OR INJURY.

ENTIRE AGREEMENT. These Sales Terms and Conditions set forth the entire agreement between the Customer and Hoover relating to the sale of Hoover Products to Customer. Any additional or different terms in the Customer's forms are hereby deemed to be material alterations and notice of objection to them and rejection of them is hereby given.

GOVERNING LAW AND VENUE. The sale of Hoover's Products hereunder shall be governed by the laws of the State of Georgia, excluding its laws related to choice or conflicts of law. The United Nations Convention on Contracts for the International Sale of Goods is expressly disclaimed and does not apply to the sale of Hoover's Products. All disputes between the parties that may arise related to the Products shall be heard and determined in a federal or state court located in Augusta, Georgia. The Customer acknowledges such courts have the jurisdiction to interpret and enforce the provisions herein. The Customer waives all objections as to personal jurisdiction or venue in any of the above courts.

ATTORNEY'S FEES. If any action or proceeding is commenced to enforce or interpret any of the provisions of this Limited Warranty, and Hoover is the prevailing party in any such action or proceeding, then Hoover shall be entitled to recover its reasonable attorneys' fees, expert witness fees, costs of suit and expenses, in addition to any other relief to which Hoover may be entitled. As used herein, Hoover is a "prevailing party" when, including but without limitation, a party dismisses an action against Hoover for recovery hereunder in exchange for payment of the sums allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the action brought by such party.

MISCELLANEOUS. (a) Headings used herein are for convenience only and shall not be used for interpretive purpose. (b) A party's failure to act with respect to another party's breach of any provision contained herein does not constitute a waiver. (c) If any provision herein is held to be invalid or unenforceable, such provision shall be narrowly construed, if possible, or otherwise deemed ineffective and the remaining provisions shall not be affected. (d) These Terms and Conditions will survive the fulfillment of any Purchase Order.