

SLUYTER TERMS AND CONDITIONS OF SALE

1. ENTIRE AGREEMENT: These Terms and Conditions of Sale together with Buyer's Credit Application Terms and Conditions (if applicable), which are incorporated herein by reference, are between Sluyter Company Ltd., its subsidiaries, affiliates, divisions, successors and assigns (collectively, "Sluyter") and Buyer, and form the entire agreement between Sluyter and Buyer and apply to all transactions between Sluyter and Buyer unless otherwise specifically agreed to in writing. Buyer acknowledges that standard business forms of Buyer, including purchase orders and requests for proposal may be used in the ordinary course of business between Sluyter and Buyer, but that such standard business forms will only be used to define the description, quantity, price and destination of goods to be sold, supplied or delivered by Sluyter to Buyer. All prior oral or written agreements, including but not limited to Buyer's purchase order, which are different from or purport to be in addition to these Terms and Conditions of Sale are not applicable and are not binding on Sluyter. Buyer will be deemed to have accepted these Terms and Conditions of Sale if any goods or services are sold, supplied or delivered by Sluyter to Buyer or an invoice is delivered by Sluyter to Buyer in respect of such goods or services.

2. ACCEPTANCE OF ORDERS: All orders are subject to acceptance by Sluyter, which acceptance is contingent on adequate supply and, if applicable, credit approval of Buyer.

3. CANCELLATION: Buyer may not cancel, change or modify an order without the written consent of Sluyter and payment by Buyer of all applicable cancellation of re-stocking fees. Special order items may not be cancelled or returned and no refunds will be issued.

4. PRICE: All prices are subject to change unless otherwise noted on Sluyter's quotation. Buyer will be invoiced at prices in effect at the time of shipment. All taxes, transportation costs, duties and other charges are in addition to quoted prices.

5. PAYMENT: Terms of invoice payment are net 30 days. In the event Buyer fails to make any payment to Sluyter when due, Buyer's entire account(s) with Sluyter will become immediately due and payable without notice or demand and all past due amounts will be subject to a service charge accruing at a rate of 2% per month, calculated daily and compounded monthly (26.82% per annum) or the highest rate permitted by law, whichever is lower. If Buyer is in default for non-payment, then in addition to any other remedies available to Sluyter, Buyer agrees to pay and shall indemnify and hold harmless Sluyter in respect of such interest together with all the costs, losses, charges, expenses and liabilities of Sluyter related or incidental to its collection efforts or the enforcement of any of its rights in connection with such default (including legal fees). Sluyter will grant a lien waiver only to the extent that payment is received and not avoidable as a bankruptcy preference.

6. SHIPMENT: All orders are shipped F.O.B. point of shipment. Risk of loss will transfer to Buyer upon tender of goods to Buyer, Buyer's representative or common carrier. The cost of any special packaging or handling caused by Buyer's requirements or requests will be added to the amount of Buyer's order. If Buyer causes or requests a delay of shipment, or if Sluyter ships or delivers an order erroneously as a result of inaccurate, incomplete or misleading information supplied by Buyer or its agents or employees, all storage and other additional costs and risk will be borne by Buyer.

7. DELIVERY: Delivery to the job site or other location indicated by Buyer constitutes delivery to Buyer, regardless of whether Buyer or Buyer's agent is at such location at the time of delivery of goods a delivery receipt. Sluyter will make a good faith effort to complete the delivery of all goods ordered by Buyer as indicated by Sluyter in writing; provided, however, that Sluyter assumes no responsibility or liability and will not accept any back charge for any loss or damage due to delay or inability to deliver, whether or not such loss or damage was made known to Sluyter, including but not limited to as a result of Sluyter's non-performance caused by an act of God, war, labour disputes, civil unrest, accidents, the inability to obtain materials, delays of carriers, contractors or suppliers or any other causes of any kind which is beyond the control of Sluyter.

8. INSPECTION AND ACCEPTANCE: Buyer shall examine all goods upon receipt and prior to installation. All claims for damage, shortage, errors in shipment or improper delivery must be made to Sluyter in writing within five (5) business days of delivery, after which date Buyer will be deemed to have irrevocably accepted the goods, if not previously accepted, and will have no right to reject the goods or to revoke acceptance. Buyer must make any claims for billing errors or adjustments to Sluyter in writing within ten (10) business days from the invoice date. Claims not received in writing within such period will be waived by Buyer.

9. BACK ORDERS: Items which are not shipped are back-ordered for future shipment unless Buyer cancels their order in accordance with these Terms and Conditions of Sale.

10. RETURNS: Buyer may return any goods which Sluyter stocks and which are not special order items if: (i) it is in new condition, suitable for resale in its undamaged original packaging and with all original parts; and (ii) it has not been used, installed, modified, rebuilt, reconditioned, repaired, altered or damaged. All returns are subject to a minimum 25% re-stocking fee, unless otherwise agreed to by Sluyter. Special orders or non-stock items or private branded products are non-returnable.

11. SET-OFF: Buyer is not entitled to set-off any amounts due to Sluyter by any amount due by Sluyter to Buyer in connection with any transaction governed by these Terms and Conditions of Sale.

12. BUILDER'S LIENS: Buyer acknowledges and agrees that, in the event that Buyer purchases goods from Sluyter and supplies or incorporates such materials in respect of an improvement pursuant to the applicable provincial construction or builder's lien legislation, such goods will be deemed to have been purchased pursuant to a prevenient arrangement and that one continuing contract is deemed to be in place.

13. EXCLUSION OF WARRANTY AND LIMITATION OF LIABILITY: Sluyter warrants only its title to goods sold, supplied or delivered to Buyer. All other warranties are those of the relevant manufacturer. Sluyter assigns to Buyer any warranty provided by its suppliers and by the manufacturer. Buyer waives any right to legal action against Sluyter for damage caused by the goods sold, supplied or delivered by Sluyter, which includes and not limited to environmental damages. Any warranty is void if there has been misuse, accident, modifications, unsuitable physical or operating environment, improper maintenance, storage or installation. Buyer's sole and exclusive remedy will be the repair, replacement or refund of the purchase price paid for product returned during the relevant manufacturer's warranty period. **Sluyter disclaims all other expressed or implied warranties, including but not limited to the implied warranties or merchantability and fitness for particular purpose. Sluyter will not, in any circumstances, be liable for any special, indirect, incidental, liquidated or consequential damages suffered by buyer and in no event will Sluyter's liability, if any, exceed the net sales price of the goods sold, supplied or delivered to buyer.**

14. DEFAULT: If Buyer is in default of these Terms and Conditions of Sale, Sluyter may, at its option, cancel any unexecuted portion of any order to which these Terms and Conditions of Sale apply and/or exercise any right or remedy which may be available to it at law. Buyer will be in default under these Terms and Conditions of Sale if: (a) the Buyer fails to perform any covenant, term or condition contained herein or breaches any representation or warranty given by Buyer to Sluyter; (b) Buyer fails to give a required notice to Sluyter; (c) the Buyer is insolvent or the Buyer fails to pay debts as they come due or if Buyer makes an assignment for the benefit of its creditors, or a receiver or receiver and manager is appointed for Buyer or for any of the goods ordered pursuant to these Terms and Conditions of Sale, or if any petition is filed to adjudicate Buyer bankrupt.

15. INDEMNIFICATION: Buyer shall indemnify, hold harmless and defend Sluyter and its employees, officers, directors and agents from and against any action, cause of action, judgment or claim for damages to property (including environmental damages) or bodily injury, loss of life, liability of any nature (including the violation of any applicable laws or regulations in connection with the sale, transportation, installation, use or repair by Buyer of the goods sold, supplied or delivered by Sluyter), costs, or expenses including reasonable legal fees to the extent caused by the negligent act or omission or willful misconduct of or breach of these Terms and Conditions of Sale by Buyer.

16. SEVERABILITY: These Terms and Conditions of Sale will be construed as if prepared jointly by the parties hereto and any uncertainty or ambiguity will not be interpreted against any one party. If any of the provisions contained in these Terms and Conditions of Sale are held to be unenforceable then such provision will be given effect in such reduced form as may be decided by a court of competent jurisdiction; provided, however, that if any provision should be declared unenforceable or invalid for any reason, such unenforceable or invalid provisions will be severed from the remainder of these Terms and Conditions of Sale without affecting the enforceability or validity of the remaining provisions.

17. NON-WAIVER: The failure of Sluyter to insist upon the strict performance of any of these Terms and Conditions of Sale will not be deemed to be a waiver of any of the right or remedies of Sluyter, nor of its right to insist upon strict performance of such term or of any other term in the future. No waiver of any of these Terms and Conditions of Sale will be valid unless in writing, signed by Sluyter.

18. GOVERNING LAW: These Terms and Conditions of Sale are governed by the laws of the province of Ontario and the federal laws of Canada applicable therein without regard to conflict of law provisions and Buyer hereby irrevocably attorns to the jurisdiction of the courts of such province. All actions, regardless of form, arising out of or related to a transaction governed by these Terms and Conditions of Sale must be brought against Sluyter within the applicable statutory period, but in no event more than one (1) year after the date of the relevant invoice.