

WELLINGTON HAMRICK, INC. TERMS AND CONDITIONS OF SALE

1. TERMS OF PAYMENT

Payment shall be due according to the terms of your approved credit application or upon placement of order and before loading the Materials/Items purchased. If payment is not received on the due date, then a finance charge shall be assessed thereon at the rate of 1 1/2% per month (18%) per annum until payment in full is received. If payment is late, Wellington Hamrick, Inc. may, in its sole discretion, restrict or discontinue sales or deliveries to Purchaser.

2. MATERIALMAN'S LIEN

Purchaser agrees not to waive Wellington Hamrick, Inc.'s lien rights. No waiver of lien from Wellington Hamrick, Inc. shall be delivered until the Materials/Items have been paid for in full. Upon demand by Wellington Hamrick, Inc., Purchaser shall furnish Wellington Hamrick, Inc. with all necessary legal descriptions and all other relevant information necessary to file or perfect a lien. Purchaser shall pay all court costs, recording fees, reasonable attorney fees and any other expenses in securing lien rights.

3. TERMS OF RECEIPT

By placing an order for materials from Wellington Hamrick, Inc., customer authorizes purchase and delivery without customer's signature. The signature and written statement of Wellington Hamrick, Inc.'s employee or agent who delivers the materials describing the materials delivered and the delivery location shall be conclusive evidence of delivery of the materials to the customer under the term of this agreement.

4. COMPETENT AGENT

The customer shall have a competent agent at the delivery site to direct trucks and to receive all materials.

5. DAMAGES

All materials upon entry of the jobsite or delivery to the jobsite shall become the sole responsibility of the customer and all risks of loss, damages or injury shall be assumed exclusively by the customer. Damages shall include, but not limited to truck damages to: existing concrete drives, concrete walks, concrete slabs, asphalt drives, asphalt walks, asphalt curbs, culvert pipe, wells, underground tanks, underground lines, valves, meters, hydrants, fences, walls, structures, overhead lines, signs, grass, flowers, planters, pools, playground equipment, mobile homes, building supplies, trees, and any other vehicles or structures not listed herein.

6. CLEAR AND SAFE ENTRY

Clear and safe passage in and out of the jobsite is the sole responsibility of the customer, any failure to reach delivery point shall be the sole responsibility of the customer. Customer shall provide safe entrance into jobsite whether pulling into or backing into jobsite is required. All traffic management shall be the sole responsibility of the customer. Adequate signage and flaggers shall be the sole responsibility of the customer.

7. WRECKER CHARGES

Customer will be responsible for any and all wrecker charges to safely and effectively move truck into and out of jobsite. Customer assumes responsibility for payment of any concrete ordered whether placed or not. Allowable truck unloading time is a maximum of one hour. Standing charges for truck shall ensue thereafter at the rate of \$ 100.00 per hour.

8. WASH-UP AREA

Purchaser agrees to provide and indicate an area for trucks to wash out chutes before proceeding down any public road. Purchaser or agent assumes all responsibility for the selection of wash up area. If no wash up area is provided, Wellington Hamrick, Inc. may choose to dispatch another vehicle to allow the truck to wash up. Charges for a wash up vehicle are \$ 100.00 per trip. This charge is due and payable at the time of payment of the material.

9. WARRANTIES

WELLINGTON HAMRICK, INC. warrants to purchaser that, for a period of one year from delivery all the Materials delivered are merchantable and will pass without objection in the trade under the Invoice description.

THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AS TO DESCRIPTION, QUALITY, MERCHANTABILITY, FITNESS, FOR ANY PARTICULAR PURPOSE OR ANY OTHER MATTER. Additionally, if an alteration, modification, or amendment occurs to the Materials including, but not limited to, the addition of water exceeding the maximum designed water/cement ratio, or other materials to ready mix concrete, then the express warranty contained herein is void and ineffective, then purchaser assumes sole responsibility for the use, application, defects, deficiencies and suitability of the Materials and hereby waives all rights, claims, demands, and causes of action against WELLINGTON HAMRICK, INC.

10. FORCE MAJEURE

Wellington Hamrick, Inc. shall not be responsible or liable for any delays or failures in manufacture or delivery due to any cause or condition beyond the control of Wellington Hamrick, Inc., including, without limiting the generality of the foregoing, strikes or other labor difficulties, fire, floods, inability to secure transportation facilities, acts of God, actions of the elements, shortage of materials or equipment, riots or other civil commotion, governmental interference or embargoes, or war.

11. LIABILITY LIMITATION

In no event shall Wellington Hamrick, Inc. be liable for consequential, incidental, or special damages resulting from or in any manner related to the Materials, their design or use, or any inability to use the same, including, without limitation, damages arising out of or in any manner relating to the delivery of the Materials or any delay with respect to their delivery, it being understood that the **SOLE AND EXCLUSIVE REMEDY** with respect to defective products shall be the repair, correction or replacement thereof covered by the warranties listed in paragraph 9 above, if any. If the Materials prove so defective, however, as to preclude the remedying of warranted defects by repair or replacement, the Purchaser's **SOLE AND EXCLUSIVE REMEDY** shall be the refund of the purchase price of the defective Materials involved.

Customer

Wellington Hamrick, Inc.

Company

Date