

**Hunter Douglas Ceiling & Wall Products, exclusively from CertainTeed
Terms and Conditions of Sale**

- 1. PARTIES:** CertainTeed Ceilings, Inc., is herein referred to as "Seller" and the person, company, or other entity purchasing as indicated on the front hereof is referred to herein as "Buyer". All materials, goods, or merchandise described on the front hereof, regardless of type, are referred to herein as "Products".
- 2. ACCEPTANCE OF ORDERS:** All orders are subject to Seller's written approval and acceptance at its offices in Norcross, Georgia, and shall not become binding obligations of Seller unless and until Seller has issued a written Order Confirmation and said Order Confirmation has been executed by both Buyer and Seller. Sale of Products hereunder are subject to and include the Terms and Conditions of Sale herein which are additional to or different from any terms or conditions of sale contained in any purchase order submitted by Buyer. Without limiting the generality of the foregoing, no acknowledgment by Seller of or reference by Seller to or performance by Seller under any purchase order submitted by Buyer shall be deemed to be an acceptance by Seller of any terms or conditions contained in such purchase order which are additional to or contrary to the Terms and Condition contained herein.
- 3. CREDIT APPROVAL:** Anything herein to the contrary notwithstanding, all sales hereunder are subject to Seller's approval of Buyer's credit. Buyer should allow two (2) weeks for credit checks. Seller reserves the right to cancel or change credit terms at its discretion and to request advance payment at any time.
- 4. ORDER CANCELLATIONS/RETURNS:** Except as otherwise expressly provided herein, all sales are final upon the parties' execution of Seller's written Order Confirmation and may not be canceled or changed without written approval of Seller. Seller reserves to its sole judgment and discretion when and under what circumstances it will approve any order changes and/or cancellations. Without limiting the generality of the foregoing, no Products may be returned to Seller without Seller's prior written authorization. Credit for Products returned with Seller's authorization will be at the original invoice prices less a restocking charge equal to twenty-five percent (25%) of the original invoice price, unless the returned Products are damaged, discontinued, non-standard or manufactured to the Buyer's specifications, in which case, no credit for returned Products will be given. All authorized returns shall be C.I.F. Seller's original point of shipment or such other destination as Seller may specify.
- 5. PRICES:** Unless otherwise stated on the front hereof, all prices are F.O.B. Seller's warehouse as specified on the front hereof and include standard carton packaging. Prices do not include sales, use, excise or other taxes. All such taxes will be added to Seller's invoice as a separate charge to be paid by Buyer. Orders are subject to Over-runs as defined on Quote and/or Order Confirmations.
- 6. PAYMENT:** **6 (a)** Unless otherwise provided on the front hereof, and subject to provisions of paragraph 6(b) below, the purchase price for Products sold hereunder shall be due and payable in cash or by certified check upon delivery.
- 6 (b)** Seller reserves the right in its sole discretion and at any time (whether before or after issuance of Seller's written order confirmation) to require Buyer to provide Seller with (i) a deposit of up to fifty percent (50%) of the full purchase price of Products covered by an order, or (ii) an irrevocable letter of credit in favor of Seller confirmed by Seller's Bank for not less than the full purchase price of Products covered by an order, plus any applicable sales and excise taxes and all costs and charges to be incurred by Seller for the account of the Buyer in connection with the transaction. Any letter of credit required hereunder shall be in the form and substance reasonably satisfactory to Seller.
- 6 (c)** Any amounts payable to Seller hereunder which are not paid when due shall thereafter bear interest at the rate of one and one-half percent (1.5%) per month or the maximum amount permitted by applicable law, whichever is less. Time is of the essence of all payments due under advice therefrom, or through a collection agency, Buyer agrees to pay all costs of collection, including (but not by way of limitation) all court costs and reasonable attorney's fees.
- 6 (d)** Upon failure of Buyer to make any payment when due hereunder, or in the event of any default, breach or repudiation by Buyer of any obligation to Seller, whether contained herein or otherwise, or in the event Buyer becomes insolvent, calls a meeting of its creditors, or makes an assignment for the benefit of its creditors, or if any bankruptcy, insolvency, reorganization or arrangement proceeding shall be commenced by or against Buyer, Seller shall have (in addition to any and all other rights or remedies Seller may have at law or in equity) the option to (i) cancel this and any other transaction with Buyer (Buyer remaining liable to Seller for damages); (ii) defer any deliveries hereunder; (iii) declare the full purchase price of all Products sold hereunder immediately due and payable; and/or (iv) sell all or any portion of undelivered Products, without notice, at a public or private sale (Buyer shall be responsible for the costs and expenses of such sale and for such deficiency).
- 6 (e)** The Parties agree that if Seller shall, with respect to any sales to Buyer, agree to vary or relax the method or terms of payment, such variation or relaxation shall not affect in any manner whatsoever Seller's rights thereafter to require payment in accordance with terms specified herein. Any check or remittance received from or for the account of Buyer may be accepted and applied by Seller against any indebtedness or obligation owing by Buyer to Seller, without prejudice to and without discharging the remainder of any such indebtedness or obligation, regardless of any condition, provision, statement, legend or notation appearing on, referring to or accompanying such check or remittance.
- 7. SECURITY INTEREST:** To secure the performance of Buyer's obligations hereunder, Seller reserves, and Buyer grants to Seller, a security interest in all Products sold hereunder, together with all proceeds hereof. Buyer hereby agrees upon request by Seller to execute and deliver such financing statements, notices and other documents, and to do such other acts and things as may be necessary from time to time for Seller to perfect and maintain the security interest reserved herein; and Buyer hereby constitutes and irrevocably appoints Seller its agent and attorney-at-fact for the purpose of executing any and all financing statements, notices and other documents that may be necessary from time to time for Seller to perfect and maintain the security interest reserved herein.
- 8. DELIVERY AND RISK:** Unless otherwise expressly provided on the front hereof, deliveries hereunder shall be made F.O.B. Seller's warehouse in the United States as indicated on the front hereof. Buyer shall bear all risks of loss or damage to Products after they are delivered to Buyer or to a carrier on behalf of Buyer at Seller's warehouse. Any arrangements made or expenses incurred by Seller for carriage or insurance of Products after the delivery shall be for the account of Buyer and promptly paid or reimbursed to Seller by Buyer. Unless Buyer specifies complete instructions as to the method of shipment Seller may exercise its judgment and discretion in choosing the carrier and means of shipment. The delivery dates specified on the front hereof are Seller's current best estimates and are not guaranteed. Subject to the provisions of paragraph 19 hereof, Seller will use its reasonable efforts to deliver Products by the requested delivery date.
- 9. PARTIAL DELIVERIES:** Seller may deliver Products in partial shipments and reserves the right to invoice for partial deliveries. Payments for partial deliveries shall be made in accordance with the payment terms set forth in paragraph 6 above.
- 10. DEFERRED DELIVERIES:** Seller will not defer deliveries at Buyer's request unless Buyer agrees to indemnify Seller against all loss and additional expense incurred by Seller in connection with such deferred deliveries, including, but not limited to demurrage, handling, storage, insurance and similar charges. Transfer to storage shall be considered delivery for all purposes hereunder, including invoicing and payment and Buyer shall bear all risks of loss or damage to Products during storage.
- 11. LIMITED WARRANTY:** **11 (a)** Subject to the provisions of paragraph 11(b) below, Seller warrants to Buyer, and only to Buyer, that Products ordered hereunder shall conform (within one quarter (1/4) inch) with Buyer's specifications with respect to length and under normal use and service shall be free of defects in materials and workmanship, ordinary wear and tear excepted, for a period of twelve (12) months after delivery, provided that the Products are installed and maintained in strict compliance with Seller's specifications and recommendations. Should any Products covered by this warranty prove defective during the warranty period, Buyer shall notify Seller in writing of such defect promptly, but in no event later than thirty (30) days after discovery, or ten (10) days after the expiration of the warranty period, whichever is first to occur. Seller's sole obligation, and Buyer's exclusive remedy, under this warranty shall be limited to the repair or replacement, at Seller's option, of any Product or component thereof covered by this warranty which proves defective in materials or workmanship during the warranty period; provided, however, that Seller shall have no obligation with respect to any such defect unless Seller is given written notice of the defect in the manner and within the time provided above. If any defective Product or component thereof covered by this warranty requires repair or replacement, Buyer shall obtain a written return authorization from Seller and thereafter deliver the defective Product or component to the Seller's warehouse as indicated on the front side hereof, or to such other destinations as Seller may specify. No claim against Seller shall be allowed for Products returned hereunder without Seller's written authorization. All transportation costs and charges incurred in connection with the repair or replacement of any Products or components covered by this warranty shall be for the account of the Buyer. The repair or replacement of any Product or component pursuant to the foregoing warranty shall not extend the term of such warranty beyond the warranty period set forth above. EXCEPT AS EXPRESSLY PROVIDED IN THIS PARAGRAPH, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, NATURE OR DESCRIPTION, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF ANY PRODUCTS FOR ANY PARTICULAR PURPOSE, AND HEREBY DISCLAIMS THE SAME.

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11 (b) The limited warranty provided in paragraph 11(a) shall not apply to: (i) normal manufacturing or finishing defects, (ii) normal deterioration due to wear and tear, (iii) alterations or modifications in a manner not authorized by Seller in writing, (iv) defects in the systems or application in which the Products are installed, or (v) any damage to or any failure of any Products resulting from acts of God or conditions beyond reasonable control of the Seller, including (but not by way of limitation) accidents, fire, misuse, abuse, negligence, improper installation, modification, alterations, tampering, vandalism or failure to properly maintain or service Products. In addition, the obligations of Seller under paragraph 11(a) shall not include payment for (i) the cost of maintenance, adjustments, installation, and startup, (ii) living and traveling expenses of persons performing warranty service, (iii) labor costs for the removal of Products from their application and reinstallation, (iv) overtime labor requested by Buyer, or (v) other miscellaneous expenses incurred by the Buyer.

12. LIMITS OF LIABILITY: 12 (a) In no event shall Seller be liable to Buyer, whether in contract or in tort or under any other legal theory, for loss of profits or revenues, loss of use or similar economic loss, or for any indirect, special, incidental, consequential or similar damages arising out of or in connection with the sale, non-delivery, servicing, use, installations, maintenance, condition or possession of any Product sold hereunder, or any claim made against Buyer by any other party, even if Seller has been advised of the possibility of such claim.

12 (b) In no event shall Seller's liability under any claim made by Buyer exceed the purchase price actually paid by Buyer for the Products in respect of which such claim is made.

13. INSPECTION/LIMITATION OF ACTIONS: 13 (a) Buyer shall promptly inspect all Products upon delivery. Anything herein to the contrary notwithstanding, to the extent that any defects, shortages or nonconformities in Products are discoverable by inspection upon delivery of Product to Buyer, all obligations of Seller to Buyer with respect to such defects, shortages or nonconformities shall be deemed as satisfied, and all Products shall be deemed to be free of such defects, shortages or nonconformities, unless buyer notifies Seller of such defects, shortages, or nonconformities in writing prior to the installation of the units and not more than thirty (30) days after the date of delivery.

13 (b) Without limiting the generality of paragraph 13(a), prior to installing Products, Buyer shall visibly inspect the Products for damage and check the products for correct length and proper fit in accordance with Seller's installation instructions. Anything herein to the contrary notwithstanding, Seller shall not be liable for any loss, damage or expense resulting from the installation of damaged Products or products of incorrect length or improper fit.

13 (c) No action, regardless of form, arising out of or in connection with the sale of Products hereunder (other than action by Seller for any amount due to Seller from Buyer) may be brought more than one (1) year after the cause of the action has arisen.

14. INDEMNIFICATION: Buyer agrees to defend, indemnify, and hold Seller harmless from and against any and all claims, demands, liabilities, losses, costs and expenses (including, without limitation, reasonable attorney's fees and costs of investigation), irrespective of the theory upon which based (including, without limitation, negligence and strict liability), Seller may suffer or incur as a result of any claims, demands, or actions against Seller by third parties arising out of the sale, delivery, installation or servicing of Products sold or delivered to Buyer hereunder or in connection with the use, condition, possession, installation, ownership, selection, transportation, loading unloading, maintenance or return of any Product sold or delivered to Buyer hereunder, including, without limitation, claims for injury to person or property (including death); provided, however, that Buyer shall have no liability to Seller hereunder for damages, losses or expenses resulting solely from Seller's negligence.

15. TENDER: Where Buyer has declared or manifested an intention not to accept delivery in accordance with the provisions hereof, no tender shall be necessary, but Seller may, at its option, give notice in writing to buyer that Seller is ready and willing to deliver in accordance with the provisions hereof and such notice shall constitute a valid tender of delivery.

16. ASSIGNMENT: Buyer may not assign all or any portion of its rights hereunder, or delegate or subcontract all or any portion of its obligation hereunder, without the prior written consent of the Seller.

17. REMEDIES: Except as otherwise provided herein, any rights or remedies granted hereunder to either party shall be in addition to and not in lieu of any rights or remedies such party may have at law or in equity.

18. MODIFICATION TO PRODUCTS: Seller reserves the right to change the specification or component parts of Products, provided that such change does not affect the performance of the Products and is not inconsistent with specifications for the Products provided by the Buyer to the Seller.

19. FORCE MAJEURE: Seller shall not be liable for any default or delay in the performance of any of its obligations hereunder if such fault or delay is caused, directly or indirectly, by fire, flood, earthquake, the elements, acts of God; accidents or unavoidable casualties; wars (whether declared or undeclared), rebellions or revolutions in any country; riots or civil disorders; strikes, lockouts, or labor difficulties; acts, rulings, decisions, or requirements of any tribunal or government agency, board or official; interruptions of transportation facilities or delays in transit; supply shortages or the failure of any party, (including, without limitation, affiliates of Seller) to perform any commitment to the Seller relative to the production or delivery of Products or any part thereof; litigation to which the Seller may be a party relating to any rights of Seller in any patents, licenses, trademarks, service marks, or trade names; or any other cause, whether similar or dissimilar to the causes enumerated herein, beyond the reasonable control of Seller. Seller shall notify Buyer of the happening of any such contingency within a reasonable period of time. If due to an excusable delay, performance cannot be completed within the original period of performance, the period of performance shall be extended for a reasonable period of time to allow for completion of performance.

20. WAIVER: Buyer hereby waives demand, presentment, dishonor, protest, notice of nonpayment, notice of default and any and all other demands or notices whatsoever. Except as otherwise expressly provided hereunder, no failure on the part of Seller to exercise, and no delay by Seller in exercising any right, power or remedy. No express waiver or assent by Seller to any breach of or default in any term or condition hereof shall constitute a waiver of or assent to any succeeding breach of or default in the same or any other term or condition.

21. NOTICES: All notices, order confirmations, invoices, and other communications made or given hereunder shall be deemed sufficiently made if given upon delivery in person or upon the expiration of three (3) days after the date of posting if mailed by U.S. airmail, postage prepaid, to the parties at the address appearing in the front hereof.

22. GOVERNING LAW / FORUM: Regardless of the place of contracting, place of performance or otherwise, this document and all amendments, modifications, alterations or supplements hereto, and the rights of the parties hereunder shall be construed and enforced in accordance with the laws of the State of Georgia. If any controversy or claim between the parties arises under or relating to the transactions contemplated herein, only the courts in the State of Georgia shall have jurisdiction to hear and decide such matter. Buyer hereby irrevocably (a) consents to the jurisdiction and venue of the courts of the State of Georgia, including federal courts located therein, in any action arising under or relating to the transactions contemplated herein, and (b) waives any and all jurisdictional defenses Buyer may have to the institution of any such action in any such court.

23. SEVERABILITY: All rights and restrictions contained herein may be exercised and shall be applicable and binding only to the extent that they do not violate any applicable laws and are intended to be limited to the extent necessary so they will not render any terms or conditions contained herein illegal, invalid or unenforceable. If any term or condition contained herein shall be held to be illegal, invalid or unenforceable by a court of competent jurisdiction, it is the intention of the parties that the remaining terms hereof shall constitute their agreement with respect to the subject matter hereof and all such remaining terms and conditions shall remain in full force and effect.

24. ENTIRE AGREEMENT: The order confirmation supersedes all prior discussions and agreements between the parties with respect to the subject matter hereof, and the order confirmation contains the sole and entire agreement between the parties with respect to the matters covered hereby. By way of illustration, and not by way of limitation, all purchase orders, delivery schedules and other documents submitted by Buyer hereunder or in connection herewith shall be deemed to incorporate without exception all of the Terms and Conditions of Sale contained herein notwithstanding any additional or contrary terms or conditions contained herein. Unless Seller shall expressly advise Buyer to the contrary in writing apart from the provisions of any purchase order, delivery schedule, or other document submitted by the Buyer hereunder or in connection herewith, no acknowledgment by Seller of or reference by Seller to or performance by Seller under any such purchase order, delivery schedule, or other document shall be deemed to be an acceptance by Seller of any terms or conditions contained therein which are additional to or contrary to the Terms and Conditions of Sale contained herein, which may not be modified or amended except by an instrument in writing signed by one of the Seller's duty authorized officers.

Effective date: February 1, 2019