



## TERMS AND CONDITIONS OF SALE AND WARRANTIES

The following terms and conditions shall apply to all transactions and agreements for the sale of goods, products, or services by Energy Door Company, Inc ("Company") to Buyer. Buyer agrees and accepts all terms and conditions set forth below.

**1. PRICE.** Prices, including any and all applicable taxes, for goods, products, or services as shown on the face of each purchase, work order, or sale invoice ("Order"), shall be paid in full by Buyer within 30 days from the date of Invoice unless otherwise stated in writing by a representative of the Company authorized to make such changes.

**2. TERMS OF CREDIT.** All credit terms are net 30 days from date of Order. Any deductions from the net invoice amount must be approved by a representative of the Company authorized to make such changes. Company reserves the right to revoke or revise credit terms if Buyer fails to make timely payment or Buyer's financial condition has materially deteriorated. Credit is conditioned upon receipt and approval of a completed credit application. Goods, products, or services may not be returned for credit unless prior authorization is obtained and an authorization number have been issued by Company. A 1½% per month charge will be assessed on past due amounts.

**3. SHIPMENT OF GOODS; RETURNS.** Commercially reasonable efforts will be made to ship all goods, products, or services on the scheduled shipment dates. Company shall not be liable for any claims or consequential damages arising from a failure to meet scheduled shipping dates. If Buyer refuses shipment or delivery of any goods, products, or services pursuant to an acknowledged Order, Buyer will be responsible for: (i) return shipment of such goods or products to Company in original shipping containers; (ii) return freight to Company prepaid by Buyer; and (iii) a restocking charge to be determined by Company of not less than 25% of the sale price of each good or product. Buyer assumes the risk of any damage or loss upon return shipment, the amount of which will be assessed by Company and added to the restocking charge. If Buyer refuses to pick-up goods or products from Company within 30 days after notification that the goods or products are ready for pick-up, Buyer will be responsible for a warehousing charge of 1½% per month against the Order price. If any good, product or service is defective or otherwise non-conforming, Company reserves the right to cure or make a conforming delivery at the ship-to location. Shipping terms and price will be specified on the face of the Order or Invoice. Unless otherwise instructed by Buyer in writing, Company shall select the method of shipment to the specified delivery address of Buyer.

**4. TITLE AND RISK OF LOSS; SECURITY INTEREST.** Title to goods and risk of loss or damages thereto passes to Buyer upon completion of loading of goods on carrier at Company's facility. Buyer will be liable for any additional charges such as demurrage, storage, and labor incurred by its failure to promptly unload shipments. All claims by Buyer for damages to the goods incurred during shipping shall be made to the

carrier. Buyer grants a security interest to Company in all such goods to secure payment of all amounts due.

**5. INSTALLATION SERVICES.** All installation work required to be completed pursuant to Order will be performed in accordance with Company's specifications

**6. WARRANTIES.** Company warrants: (i) all products will conform to and perform in accordance with the applicable specifications issued by the Company, provided that the installation, maintenance, servicing, and repairs of such products are performed in accordance with Company's specifications; and (ii) all installation work and other services performed by Company will be completed or rendered in a good and workmanlike manner. Sealed glass units have a 10 year warranty from the date of manufacture, LED lighting will have the warranty that is provided by the LED manufacturer, workmanship on doors, frames, shelving, post, and other items manufactured by Company will have a 1 year parts and labor warranty. Company is not responsible for freight charges.

**THE ABOVE WARRANTIES ARE THE COMPANY'S SOLE WARRANTIES AND ARE GIVEN IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. COMPANY SHALL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO INJURY TO PERSONS OR PROPERTY.**

**7. ACCEPTANCE OF PRODUCTS BY BUYER/CLAIMS:** Upon delivery or completion, all shipments and installation work must be inspected for damage, loss, shortage or deficiencies prior to acceptance from the carrier or contractor. If damage, shortage or deficiency exists with respect to any shipment or service and it is not concealed, Buyer shall secure a notation of such damage or shortage from the delivering agent on the freight bill or delivery receipt or from the installing contractor, as applicable. If any damage, defect or deficiency is concealed, Buyer must notify Company thereof within five (5) days of delivery or completion and hold the merchandise or installation work for inspection by Company. Any claims for visible loss, damage, or deficiency must be filed by Buyer with Company in writing immediately upon receipt of the materials or completion of the work. All claims of Buyer that materials delivered or services performed do not conform to the accepted Order shall be handled as claims for breach of warranty and Buyer shall be limited to those remedies available for breach of warranty.

**8. CLAIMS BY BUYER.** After submission of any claim by Buyer, Company shall be afforded a reasonable opportunity to inspect the goods and work. All claims not made in the time period and manner specified above shall be deemed waived. All actions, claims or defenses by Buyer shall be deemed waived unless commenced or asserted in writing. No claims for visible, external damage to or shortage of goods will be allowed unless they are accompanied by an inspection report or signed delivery receipt noting such loss or damage signed



by a representative of the carrier and forwarded to the Company within thirty (30) days of the invoice date.

**9. INDEMNITY.** Unless otherwise provided for herein, Company and Buyer shall indemnify and hold harmless each other from any and all claims, actions, costs, expenses, damages and liabilities, including attorney fees and costs, resulting from death, bodily injury, or damage to real or personal property caused by the negligence or misconduct of their respective employees or authorized agents in connection with their activities arising out of any Order. Neither party shall indemnify the other against claims, damages, expenses, or liabilities to the extent attributable to the acts or omissions of the other party.

**10. LIMITATION OF LIABILITY.** Notwithstanding anything to the contrary provided herein, in no event shall the Company be liable for any special, incidental, or consequential damages, including without limitation product loss, lost revenue or profits, punitive damages whether claimed under contract, warranty, negligence, strict liability, or other legal theory. Should Company nevertheless be found liable for any damage, such damages shall be limited to the purchase price of the product, good, or services as shown on the face of the Order.

**11. CANCELLATION.** Orders may not be canceled after receipt by Company unless agreed to in writing by Company. Cancellation will be granted only on terms indemnifying Company against any loss resulting from such action. At minimum, Buyer will be liable for all cost incurred on the Order through the cancellation date.

**13. DEFAULT.** If Buyer defaults or fails to make payment for the purchase of any good, product, or installation service, or if a petition in bankruptcy is filed by or against Buyer, Company, in addition to other remedies, may repossess any goods which were previously delivered or installed and for which payment has not been received, and may refuse to make further shipment of goods or perform additional services. The prevailing party in any action arising out of a default or breach of any Order or these terms and conditions shall be entitled to an award for such party's attorneys' fees and all related costs and expenses incurred in the action.

**14. FORCE MAJEURE.** Company's duty to perform and the price of all goods, products, or service are contingent upon the non-occurrence of an Event of Force Majeure. If the Company is unable perform any material obligation pursuant to Order due to an Event of Force Majeure, the Order shall at Company's election (i) remain in effect, but Company's obligations shall be suspended until the uncontrollable event terminates, or (ii) is terminated by Company upon 10 days notice to Buyer, in which

event Buyer shall pay Company for work performed to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of the Company including acts of God, acts of terrorism, war, flood, earthquake, tornado, storm, fire, civil disobedience, riots, labor disputes, material shortages, sabotage, restraint by court order or public authority (whether valid or invalid), and action or non-action by or inability to obtain or keep in force necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company.

**15. ENTIRE AGREEMENT.** Each Order, sale invoice and these provisions constitute the entire agreement between Company and Buyer with respect to the sale and purchase of goods, any installation services, and any extension of credit. If the parties agree to amend or modify any terms and conditions specified herein, such amendment or modification must be expressly stated on the face of the Order or sale invoice.

**16. GOVERNING LAW.** Each Order and agreement between Company and Buyer, and all other claims or disputes that arise between the parties, whether sounding in contract or tort, shall be governed by, construed and enforced in accordance with the laws of the State of Illinois. Company and Buyer expressly and irrevocably consent to the exclusive jurisdiction of the courts of the State of Illinois to determine all claims between the parties, regardless of whether said claims are contract claims, warranty claims, tort claims, patent claims, trademark claims or copyright claims. Company and Buyer also expressly agree and consent to file any claim, dispute, or lawsuit arising between the parties exclusively in the State or Federal Courts located in Chicago, County of Cook, State of Illinois. Service of process on Buyer may be made by certified or registered mail addressed to the Buyer.

**17. SEVERABILITY.** If any provision of the terms and conditions specified herein be deemed invalid or unenforceable, the remaining terms and conditions shall be construed as though such provision does not appear herein and shall be otherwise fully enforceable. Modification must be expressly stated on the face of the sale invoice or Order or by a written agreement duly executed by an officer of Company and Buyer. The terms specified herein shall control in the event of any variance between these terms and any terms contained in an Order

**18. HEADINGS.** The section headings contained herein are inserted for convenience only and shall not be considered in any questions of interpretation or construction of any agreements between Company and Buyer.