



TERMS & CONDITIONS

1. Applicability; These Terms & Conditions Only. All sales are expressly conditioned on the purchaser's ("Buyer") agreement to the terms and conditions stated herein (collectively, the "Terms & Conditions"). Any order, offer, authorization, statement of intent, acceptance, acknowledgement, confirmation or the like to purchase any goods and/or services from Architectural Surfaces Group or any of its subsidiaries, affiliates, or business units (including but not limited to Pental Surfaces; MetroQuartz; and/or PentalQuartz) (herein separately and collectively referred to as "Seller"); or any direction to proceed with procurement, manufacturer or shipment of any of said goods and/or services; or acceptance of all or part of such goods and/or services; or payment of all or part of such of such goods and/or services shall constitute assent to said Terms & Conditions. Any different or additional terms and conditions proposed by Buyer in any purchase order, offer, authorization, acceptance, acknowledgement, confirmation or otherwise are objected to by Seller, shall be deemed to contradict these Terms & Conditions, and will not be binding upon Seller unless specifically and expressly agreed to in writing by an authorized representative of Seller's management. Seller does not assume (and expressly disclaims) any responsibility or liability under contracts, agreements, or covenants between Buyer and any third party. These Terms & Conditions represent the entire sales agreement of Buyer and Seller as to purchases made by Buyer from Seller, except in situations where Seller has agreed to other or additional terms and conditions in writing by an authorized agent.
2. Condition of Buyer; Security Interest. Each shipment or delivery shall be deemed to have been sold under a separate and independent transaction. Any order for goods and/or services by Buyer shall constitute a representation that Buyer is solvent. If, in the judgment of Seller, the financial condition of Buyer at the time of manufacture or shipment does not justify the terms of payment specified, or if Buyer is in breach of any of these Terms & Conditions, Seller reserves the right to require from Buyer full or partial cash payment or other adequate assurance of performance before manufacture or shipment. As security for the payment of the full price of goods and/or services furnished hereunder, Buyer grants Seller a security interest (the "Security Interest") in and to said goods and/or services and in and to all of Buyer's right, title, and interest in all of Buyer's accounts receivable, inventory, and other business goods, equipment, documents, instruments, general intangibles, chattel papers, contract rights, leases or leasehold interests that Buyer now owns or hereafter acquires and the proceeds therefrom ("Collateral"), and any and all proceeds of any Collateral, which includes whatever is now or hereafter received by Buyer upon the sale, exchange, collection, or other disposition of any item of Collateral, whether voluntary or involuntary, whether such proceeds constitute inventory, intangibles, equipment, intellectual property, or other assets. Buyer agrees to execute any documents or furnish any information Seller deems reasonably necessary to perfect this Security Interest.
3. Purchase Price; Payment Terms. The price of goods and/or services shall be the price stated on Seller's written quote or invoice. Payment terms, including with respect to due date and discount, if any, shall be as stated on Seller's invoice. Past-due amounts shall incur an administrative fee of 1.5% monthly or the highest rate allowed under applicable law, whichever is less.
4. No Responsibility Except as Stated. Seller assumes no responsibility for goods and/or services meeting any job specifications or requirements unless specifically so stated in its written quotation.
5. Risk of Loss. As to goods delivered by Seller's truck, title passes upon delivery at the place Buyer receives possession; thereafter, Buyer shall bear all risk of loss or damage. Deliveries by common carrier are f.o.b. shipping point (and thereafter, Buyer shall bear all risk of loss or damage). On direct shipments from manufacturers, title passes to Buyer at point and time of delivery to common carrier; thereafter, Buyer shall bear all risk of loss or damage. Damage or shortage claims arising from direct shipments shall be made by Buyer against carrier. Seller assumes no responsibility beyond delivery to carrier in good order and is not responsible for loss, damage, or delay occurring thereafter. All items shown as freight allowed pertains to particular items and quantities. Any deviation after placement of order, including but not limited to changes in quantity or partial release, will be subject to the manufacturer's terms and conditions where applicable. Extra labor or mechanical facilities required to unload shall be provided by Buyer without cost to Seller.

6. Shipping/Performance Dates; Force Majeure. Shipping or performance dates are not guaranteed, but if stated, are based upon best information then available and are subject to change without notice unless otherwise specifically stated in writing. Seller shall not be liable for failure to deliver or for delay in delivery or performance due to (a) causes beyond its reasonable control (including but not limited to communicable disease or pandemic and/or governmental orders); (b) acts of God; (c) acts or omissions of Buyer; (d) acts of civil or military authority, governmental priority or other allocation or control; (e) fire or other casualty; (f) strike or other labor difficulty; (g) riot or other civil disturbance; (h) insolvency or other inability to perform by the manufacturer; (i) delay in transportation; or (j) any other commercial impracticability. In the event of any such delay, the estimated date of delivery or performance shall be extended for a period equal to the time lost by reason of delay.
7. Nonconforming Goods; Right to Cure. Buyer shall have the right to reject nonconforming goods or a nonconforming tender only at the point of delivery to Buyer. Seller shall have the right to cure nonconformities in the goods or in their tender, provided Seller notifies Buyer of Seller's intent to cure within ten days of notification of the nonconformity by Buyer. Buyer's failure to give Seller written notice of any claim of nonconformity at the point of delivery to Buyer shall constitute an unqualified acceptance of the goods and a waiver by Buyer of all claims against Seller with respect to the goods.
8. Natural Stone. Natural stone materials are products of nature. Shading, veining, color variation and surface texture may vary. Since these are inherent characteristics of natural stone, we strongly recommend that all material be reviewed prior to installation as material is sold "as is". Buyer agrees to examine immediately upon receipt, each of Seller's billing documents and goods, and to advise Seller of any disputed documents or defective goods within ten days of receipt, together with a written statement specifying the reasons for such dispute. Failure to notify Seller within ten days of any dispute with respect to defective goods or billing shall constitute a waiver of all such disputes. In the event of an alleged defect, the Buyer must provide Seller an opportunity to examine the goods alleged to be defective without delay. Documentation (traceability) that ensures that the defective product is in fact Seller's product must be available upon Seller's request. In the event that claims are unjustified, Seller reserves the right to charge Buyer the freight and transshipment costs as well as the examination costs. Contents of the agreed specification and any expressly agreed purpose do not constitute a guarantee; the granting of a guarantee requires a written agreement. No goods may be returned for credit and no order may be cancelled or changed in whole or in part without the prior written consent of Seller.
9. Defects; No Warranties; Product Warnings. In the event of goods and/or services that may prove defective in material or workmanship, Seller shall use its best business efforts to obtain from each manufacturer, in accordance with the manufacturer's warranty (copies of which will be furnished upon request) or customary practice, the repair or replacement of such goods and/or services. The forgoing shall constitute the exclusive remedy of the Buyer and the sole obligation of Seller. Except as to title THERE ARE NO WARRANTIES, WRITTEN, ORAL, IMPLIED, OR STATUTORY, relating to the goods and/or services that extend beyond that described in this paragraph (or, in the limited instance of MetroQuartz or PentalQuartz products, that are set forth on Seller's website (arcsurfaces.com)), and BUYER HEREBY WAIVES SAME. NO IMPLIED STATUTORY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE SHALL APPLY. Seller may include, on its invoice, written quotation, or website (arcsurfaces.com), specific product safety warnings. Buyer acknowledges and warrants receipt of same, including but not limited to product safety warnings and material safety data sheets related to the proper handling and use of quartz products, warnings related to silica-dust born disease and hazards, including silicosis, or other associated respiratory and health effects.
10. Indemnification. Buyer agrees to defend, indemnify, and hold harmless Seller, its subsidiaries, affiliates, officers, directors, shareholders, employees, agents, representatives, successors, and assigns ("Indemnitees") from and against any and all claims, demands, actions, losses, damages, penalties, liabilities, costs, obligations, and expenses (including reasonable attorneys', experts', and legal fees) arising out of or resulting in any way from any act or omission of Buyer, its agents, employees, or subcontractors, in whole or in part, arising from these Terms & Conditions or otherwise in connection with any sale of goods and/or services by Seller to Buyer, including but not limited to (i) Buyer's breach of these Terms & Conditions; (ii) any claim arising out of defective goods and/or services purchased hereunder; (iii) any claim arising from injury to Buyer's employees while in the course of receiving, installing, or otherwise handling goods purchased from Seller; (iv) violation of any laws by Buyer; (v) any claim that Seller has or had a duty to warn a third party with respect to any goods and/or services provided to Buyer; or (vi) any claim that the goods provided to Buyer infringes

a patent, copyright, or trademark or misappropriates a trade secret of a third party. Buyer shall, at the request of Seller, defend any such claim, action, or lawsuit.

11. Limited Liability of Seller. Seller's liability on any claim or damage arising out of the supplying of any goods and/or services to Buyer, or their sale, resale, or operation of use, whether based on contract, warranty, tort (including negligence), or any other grounds or theory of recovery, shall not exceed the price allocable to such goods and/or services or part thereof involved in the claim; to the extent allowed under applicable law and except as expressly provided otherwise herein, the parties agree that any such claim must be asserted within one (1) year or shall be deemed waived and barred. Seller shall not under any circumstances be liable for any labor charges without Seller's prior written consent. Seller shall not in any event be liable, whether as a result of breach of contract, warranty, tort (including negligence), or any other grounds or theory of recovery, for special, consequential, incidental, or punitive damages including, but not limited to, loss of profits or revenue, loss of use of the product or any associated product, cost of capital, cost of substitute products, facilities or services, downtime costs, or claims of Buyer's customers for such damages. If Seller furnishes Buyer with advice or other assistance that concerns any goods and/or services supplied hereunder, or any system or equipment in which any such goods and/or services may be installed, and which is not required pursuant to this contract, the furnishing of such advice or assistance will not subject Seller to any liability, whether based on contract, warranty, tort (including negligence), or any other grounds or theory of recovery.
12. Returns. No goods and/or services will be accepted for return without the written permission of Seller. Only normally stocked items in resalable condition that are in their original undamaged condition and packaging (for tile or plumbing fixtures) will be accepted for credit. Any and all accepted returns shall be subject to a minimum 35% restocking charge; provided, however, that returns will not be accepted after 30 days from date of delivery. Specially ordered items, "sale" products, or abnormal quantities of stock items will not be accepted for return, and shall be deemed to be sold "as is."
13. Charges for Delay Beyond Delivery Date. If shipments are held or stored beyond delivery date for the convenience of Buyer, Seller may, at its option, assess reasonable charges for any expense incident to such delay.
14. Order Cancellation. Orders placed by Buyer may be cancelled by Buyer only if agreed to by Seller in writing and upon payment of reasonable charges based upon expenses already incurred and commitments already made by Seller.
15. Authorization of Employee/Agent Action. Unless Buyer notifies Seller in writing to the contrary prior to making a purchase, Buyer hereby represents and warrants that any employee or agent action on Buyer's behalf shall be deemed to be authorized by Buyer, and Seller may rely upon such representation unless the written notice referred to herein is provided by Buyer prior to making such purchase.
16. Application of Payment. Unless Buyer directs otherwise in writing with each remittance, payments will be applied first to any finance charges or service charges, then to matching open invoices as Seller determines in its sole discretion; provided, however, that all payments received after the invoice due date will be applied as Seller determines in Seller's sole discretion and may be applied to the oldest invoices first, regardless of lien status of any delinquent invoices.
17. Consent to Receipt of Information by Fax or Email; Electronic Signatures. If Buyer has provided a fax number and/or email address to Seller in writing, Buyer hereby authorizes Seller to send and hereby consents to receive information by fax and/or email from Seller that may include, but is not limited to, credit account billing information, flyers, market update information, sales promotions, price sheets, product specification, and other information. Buyer agrees that its electronic signature is the legal equivalent of a manual/handwritten signature.
18. Handling Fee; Waiver. Every sale transaction is subject to a handling fee of two percent (2%) off the purchase price ("Handling Fee") unless Buyer participates in Seller's Preferred Customer Program, in which case the Handling Fee is waived; provided, however, that the Handling Fee will not be waived with respect to any sale for which payment is made by credit card.
19. Amendments. No waiver, alteration, addition or modification of any of these Terms & Conditions shall be binding upon Seller unless specifically agreed to in writing by an authorized representative of Seller's management. Buyer expressly

agrees and understands that Seller may make modifications to these Terms & Conditions from time-to-time, and Buyer expressly agrees to any and all such modifications.

20. Governing Law. Buyer's order, the interpretation and enforcement of these Terms & Conditions and all related transactions are governed by the laws of the State of Texas without regard to its conflicts of laws rules. All disputes, litigation, or other proceedings arising out of or relating to the foregoing shall take place in Travis County, Texas. The parties consent to exclusive jurisdiction and venue of the courts located in Travis County, Texas, USA, and hereby EXPRESSLY WAIVE ANY RIGHT TO A TRIAL BY JURY.
21. Attorney's Fees and Costs. If any action at law or in equity is commenced by either party to enforce or interpret the terms of Buyer's order, these Terms & Conditions or any related transaction, the party substantially prevailing in such proceeding or action shall be entitled to recover from the other party reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which the substantially prevailing party may be entitled.