

General Terms and Conditions of Sale

These General Terms and Conditions of Sale (these "Terms and Conditions") will apply to the sale of goods and any (if any) applicable services (collectively, with any such services, being the "Goods") pursuant to any contract (a "Contract") to which these Terms and Conditions are made applicable. As used in these Terms and Conditions, "we," "us," "our" and similar terms refer to Rockwood Retaining Walls, LLC, and "Customer" means the party purchasing the Goods from us.

Alteration. No provision in these Terms and Conditions may be varied or waived except by a writing signed by us specifically referring to these Terms and Conditions and describing such variance or waiver. Our acceptance or acknowledgement of Customer's purchase order or any other document pertaining to the Goods, even if in writing and signed by us, will not be deemed an acceptance of any provision of Customer's purchase order or any other document that conflicts with or adds to these Terms and Conditions, absent a separate agreement in writing signed by us expressly acknowledging and agreeing to such provisions. Without limiting the generality of the foregoing, we object to any different or additional terms or conditions contained in any request for quotation, purchase order or other document of Customer, and no such terms will be effective or binding upon us unless we agree to such terms in a writing signed by one of our officers. In no event will our delivery of any Goods be an assent to any such terms proposed by Customer. Unless otherwise expressly stated in any applicable quotation or comparable document signed by us, we may revoke any quotation or other offer at any time prior to acceptance, and no such quotation or other offer will be valid for more than 30 days. After acceptance of an order, Customer may not cancel or terminate any Contract without our consent, except as provided herein or by applicable law.

Payment; Delivery. All prices are quoted and all payments will be made in U.S. Dollars. Customer will pay our invoices IN FULL on the terms stated in the applicable invoice, without set-off or counterclaim. Past due invoices will bear a late fee of 1.0% per month or, if less, the highest rate permitted by applicable law. Any stated shipment or delivery date is the date on which we in good faith believe the Goods will be shipped, but failure to ship on that date will not be a breach of the Contract, whether such Goods are in fact shipped before or after that date. All Goods are shipped Ex Works (Incoterms 2010) at our facilities, and costs of transportation and risk of loss during shipment will be borne by Customer. We may deliver any Goods hereunder in installments, in which case each installment will be treated as a separate sale hereunder and may be separately invoiced. Customer will pay all duties and sales, value-added, excise, use or other taxes arising in connection with any transaction (other than taxes based solely on our taxable income). Unless otherwise specified, Goods will be shipped in packaging we reasonably select.

Duty to Inspect. Customer will inspect all Goods promptly upon delivery and notify us promptly upon becoming aware of any non-conformity to the Contract. Except as stated regarding any applicable written warranty, we will have no liability regarding any such non-conformity unless such notice is given to us no later than (i) for a defect that could be determined by inspection upon delivery, the 30th day after delivery of such Goods, or (ii) for any other defect, the 30th day after such defect should reasonably have been discovered by Customer, but in each event not later than the 60th day after delivery of the Goods to Customer. Shipments less than 5% over or under the quantity specified in the Contract will be deemed in conformance with the Contract. Goods will not be deemed non-conforming solely by reason of minor modifications or changes in materials from those specified in the Contract, so long as such modifications and changes do not materially and adversely affect the performance of the Goods. If the Goods do not conform to the Contract, our obligation will be limited to, at our election, supplying the missing Goods, replacing the relevant Goods, or refunding the purchase price paid for such Goods (but in all cases as otherwise may be limited in any other Paragraph of these Terms and Conditions or the Contract).

Security Interest. We reserve, and Customer hereby grants to us, a security interest in all Goods. That security interest secures all present and future obligations of Customer to us, including but not limited to the obligation to pay the price of the Goods. We may make any such filings as reasonably necessary to perfect such security interest (and Customer will cooperate promptly in all reasonable respects in connection therewith).

Our Warranty. Customer will ensure that any written warranty that we provide with the Goods is properly given to the end user of the Goods (whether by providing such warranty directly or causing Customer's contractors to do so).

Limited Warranty. We make no warranty of any nature whatsoever with respect to the Goods, other than any written, limited warranty that we may provide at the time we provide the Goods. If Customer discovers any breach of or similar creation of obligation under the warranty described above, Customer must notify us in writing thereof within 30 days after such discovery. Within a reasonable time following such notification, we will determine whether such warranty in fact applies and will, at our option, either (i) repair or replace the applicable Goods, (ii) remit to Customer the purchase price paid for such Goods, or (iii) take any other action consistent with the terms of such warranty. THE FOREGOING WARRANTIES ARE EXCLUSIVE. WE MAKE NO OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. THE REMEDIES SET FORTH IN THIS PARAGRAPH ARE THE EXCLUSIVE REMEDY FOR ANY BREACH OF OR SIMILAR CREATION OF OBLIGATION UNDER WARRANTY. The remedies set forth in this Paragraph will not be deemed to have failed of their essential purpose so long as we are willing and able to provide one of the applicable remedies set forth herein.

Limitations. WITHOUT LIMITING ANY OTHER LIMITATION OF LIABILITY, IN NO EVENT WILL WE BE LIABLE FOR ANY INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, WHETHER FOR BREACH OF ANY WARRANTY, BREACH OR REPUDIATION OF ANY OTHER TERM OR CONDITION, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE. IN NO EVENT WILL OUR AGGREGATE LIABILITY TO, THROUGH OR ON BEHALF OF CUSTOMER IN ANY WAY RELATED TO THIS OR ANY RELATED TRANSACTION EXCEED THE TOTAL AMOUNT PAID TO US UNDER THE APPLICABLE CONTRACT.

Force Majeure. We will not be liable for any failure to manufacture, deliver or provide, or for any delay in the manufacture, delivery or provision of, any Goods if such failure or delay is caused by act of God, fire, strike, blackout, labor difficulty, riot, inability to obtain raw materials, supplies or other goods or services, equipment, labor or transportation, governmental restrictions, public health nuisance, or similar cause over which we are unable to exercise adequate control. We may cancel any Contract by notice to Customer if we determine in good faith that any such cause makes performance of the Contract impossible or commercially impracticable for us.

Confidential Information. "Confidential Information" means information that you obtain from or regarding us regarding our products, business practices, customers, assets or other matters, excluding any information that is publicly available when provided or thereafter becomes publicly available, other than by reason of your breach hereof. You will (i) not use any Confidential Information other than for the performance of any Contract, (ii) not disclose Confidential Information, except to your employees and contractors requiring such information for the performance of any Contract, (iii) use your best efforts to prevent your employees, your contractors, and your contractors' employees from using or disclosing Confidential Information to any party, except as permitted by this Paragraph, and (iv) return all Confidential Information to us upon our request following completion or termination of any Contract. This Paragraph (and all related rights and remedies) will survive performance or termination of any Contract.

Miscellaneous. All rights and obligations under these Terms and Conditions and any Contract will be governed by the laws of the State of Minnesota (without regard to principles of conflicts of law). The headings herein are for convenience of reference only and will not affect any meaning or interpretation. The United Nations Convention on Contracts for the International Sale of Goods will not apply. CUSTOMER HEREBY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY COURT SITTING IN HENNEPIN COUNTY, MINNESOTA, IN ANY PROCEEDING ARISING OUT OF OR RELATING TO THE INTERACTIONS BETWEEN US AND CUSTOMER AND TO THE RESPECTIVE COURT TO WHICH AN APPEAL OF THE DECISIONS OF ANY SUCH COURT MAY BE TAKEN, AND CUSTOMER AGREES NOT TO COMMENCE, OR COOPERATE IN OR ENCOURAGE THE COMMENCEMENT OF, ANY SUCH PROCEEDING, EXCEPT IN SUCH A COURT. CUSTOMER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT IT MAY DO SO, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE THEREIN OF SUCH A PROCEEDING. CUSTOMER HEREBY AGREES THAT A FINAL JUDGMENT IN ANY SUCH PROCEEDING WILL BE CONCLUSIVE AND MAY BE ENFORCED IN ANY JURISDICTION BY SUIT ON THE JUDGMENT OR BY ANY OTHER MANNER PROVIDED BY APPLICABLE LAW. CUSTOMER HEREBY EXPRESSLY WAIVES ANY RIGHT IT MAY HAVE TO A JURY TRIAL IN ANY SUCH PROCEEDING. NO CLAIM OR ACTION, REGARDLESS OF FORM, ARISING OUT OF THE INTERACTIONS BETWEEN US AND CUSTOMER MAY BE BROUGHT BY OR ON BEHALF OF CUSTOMER MORE THAN ONE YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED (SUBJECT TO ANY FURTHER APPLICABLE LIMITATION). IF ANY SUCH LEGAL ACTION IS BROUGHT, THE PREVAILING PARTY WILL BE AWARDED REASONABLE ATTORNEYS' FEES IN ADDITION TO ANY OTHER RELIEF THAT MAY BE GRANTED.